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TRIAL

OF

THE MAJOR WAR CRIMINALS

BEFORE

THE INTERNATIONAL MILITARY TRIBUNAL

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PROCEEDINGS

9 January 1946 — 21 January 1946

CONTENTS

Thirtieth Day, Wednesday, 9 January 1946,
Morning Session 1
Afternoon Session 31

Thirty-first Day, Thursday, 10 January 1946,
Morning Session 65
Afternoon Session 100

Thirty-second Day, Friday, 11 January 1946,
Morning Session 131
Afternoon Session 159

Thirty-third Day, Monday, 14 January 1946,
Morning Session 197

Thirty-fourth Day, Tuesday, 15 January 1946,
Morning Session 230
Afternoon Session 260

Thirty-fifth Day, Wednesday, 16 January 1946,
Morning Session 296
Afternoon Session 329

Thirty-sixth Day, Thursday, 17 January 1946,
Morning Session 368
Afternoon Session 399

Thirty-seventh Day, Friday, 18 January 1946,
Morning Session 434
Afternoon Session 459

Thirty-eighth Day, Saturday, 19 January 1946,
Morning Session 489

Thirty-ninth Day, Monday, 21 January 1946,
Morning Session 520
Afternoon Session 547

THIRTIETH DAY

Wednesday, 9 January 1946

Morning Session

SIR DAVID MAXWELL-FYFE (Deputy Chief Prosecutor for the United Kingdom): If the Tribunal please, when the Tribunal adjourned I had just dealt with the last of the two Norway documents, which I now put in as Exhibits GB-140 and GB-141. Their numbers are 004-PS and D-629.

My Lord, for convenience the first document, to which I shall refer in a few minutes, will be Document Number 1871-PS.

THE PRESIDENT (Lord Justice Sir Geoffrey Lawrence): I have that here.

SIR DAVID MAXWELL-FYFE: My Lord, before I come to that, I just want to say one word about the aggression against the Low Countries—Belgium, the Netherlands, and Luxembourg.

The facts as to the aggression against these countries, during the period when this defendant was Foreign Minister, were stated in full by my friend Mr. Roberts, and I think if I give the Tribunal the reference to the transcript at Pages 1100 to 1125 (Volume III, Pages 289 to 307), I do not need to detain the Tribunal on that part of the case. I only remind the Tribunal that the action of this defendant as Foreign Minister to which attention may be called is the making of a statement on the 10th of May 1940 to representatives of the foreign press with regard to the reasons for the German invasion of the Low Countries; and these reasons were, in my respectful submission, demonstrated to be false by the evidence called by Mr. Roberts, which appears in that part of the transcript.

My Lord, I then proceed to the aggression in southeastern Europe against Greece and Yugoslavia, and the first moment of time in that regard is the meeting at Salzburg in August 1939, at which the Defendant Von Ribbentrop participated, when Hitler announced that the Axis had decided to liquidate certain neutrals. That is Document 1871-PS, which I now put in as Exhibit GB-142, and the passage to which I should like to refer the Tribunal is on Page 2 of the English version, two-thirds down the page in the middle of the fifth paragraph, six lines from the top. Your Lordship will find the words "Generally speaking."

THE PRESIDENT: Yes.

SIR DAVID MAXWELL-FYFE: I desire to quote from there:

"Generally speaking, it would be best to liquidate the pseudo-neutrals one after the other. This is fairly easily done if one Axis partner protects the rear of the other, as the latter finishes off one of the uncertain neutrals. Italy may consider Yugoslavia such an uncertain neutral. At the visit of Prince Regent Paul he (the Führer) suggested, particularly with regard to Italy, that Prince Paul clarify his political attitude towards the Axis by a gesture. He had thought of a closer connection with the Axis and the withdrawal of Yugoslavia from the League of Nations. Prince Paul agreed to the latter. Recently the Prince Regent was in London and sought reassurance from the Western Powers. The same thing was repeated that happened in the case of Gafencu, who was also very reasonable during his visit to Germany and who denied any interest in the aims of the Western Democracies. Afterwards it was learned that he had later assumed a contrary standpoint in England. Among the Balkan countries the Axis can completely rely only on Bulgaria, which is, in a sense, a natural ally of Italy and Germany."

Then missing a sentence:

"At the moment of a turn for the worse for Germany and Italy, however, Yugoslavia would join the other side openly, hoping thereby to give matters a final turn to the disadvantage of the Axis."

That demonstrates the policy with regard to uncertain neutrals.

Then, as early as September 1940 this defendant reviewed the war situation with Mussolini. This defendant emphasized the heavy revenge bombing raids in England and the fact that London would soon be in ruins. It was agreed between the parties that only Italian interests were involved in Greece and Yugoslavia and that Italy could count on German support.

Then Von Ribbentrop went on further to explain to Mussolini the Spanish plan for the attack on Gibraltar and Germany's participation therein and that he was expecting to sign the protocol with Spain, bringing the latter country into the war, on his return to Berlin.

This is Document 1842-PS, which is the next document in the book to the one at which the Tribunal has just been looking, and the passage with regard to Greece and Yugoslavia occurs in the middle of the first page—if I might just read a very short extract:

"With regard to Greece and Yugoslavia the Foreign Minister stressed that it was exclusively a question of Italian interests, the settling of which was a matter for Italy alone and

in which Italy would be certain of Germany's sympathetic assistance."

I don't think I need trouble the Tribunal with the rest.

THE TRIBUNAL (Mr. Francis Biddle, member for the United States): I think you had better read the next paragraph.

SIR DAVID MAXWELL-FYFE: "But it seemed to us to be better not to touch on these problems for the time being, but instead to concentrate on the destruction of England with all our forces. Where Germany was concerned, she was interested in the northern German districts (Norway, *et cetera*), and this was acknowledged by the Duce."

I am very grateful to you, Your Honor. That I put in as Exhibit GB-143.

A month or two later, in January 1941, at the meeting between Hitler and Mussolini, in which this defendant participated, the Greek operation was discussed. Hitler had stated that the German troops in Romania were for use in the planned campaign against Greece. That document is C-134, which was put in as Exhibit GB-119, and therefore I do not propose to give it again but to give the Tribunal the reference to the points which are mentioned at the foot of Page 3 of the English text.

With regard to that meeting there is a cross-reference in Count Ciano's diary, Count Ciano having attended as Italian Foreign Minister, and he recalls his impression of that meeting in the diary for the 20th and 21st of January by saying:

"The Duce is pleased with the conversation on the whole. I am less pleased. Above all, because Ribbentrop, who had always been so boastful in the past, told me, when I asked him outright how long the war would last, that he saw no possibility of its ending before 1942."

Despite that somewhat pessimistic statement to Count Ciano, a short time later, 3 weeks later, when it was a question of encouraging the Japanese, this defendant took a more optimistic line.

On the 13th of February 1941 he saw Ambassador Oshima, the Japanese Ambassador, and that conversation appears in Document 1834-PS, which is Exhibit USA-129. That was read previously, and again I simply give the reference on Page 3 of the English version.

The second from the last paragraph dealt with the optimistic account of the military position and the position of Bulgaria and Turkey. I do not think I need read it further, but I will give the Tribunal the reference.

Then after that, in March, this defendant put forth his efforts to get Yugoslavia to join the Axis, and on the 25th of March the

defendant, in a note to the Prime Minister Cvetković—and this is Document 2450-PS, which is Exhibit GB-123—gave the assurance:

> "The Axis-Power Governments, during this war, will not direct a demand to Yugoslavia to permit the march or transportation of troops through the Yugoslav state or territory."

After that, it is only fair to point out that there was the *coup d'état* in Yugoslavia. General Simovic took over the government; and two days after the assurance which I just read, at the meeting of the 27th of March 1941, at which this defendant was present, Hitler outlined the military campaign against Yugoslavia and promised the destruction of Yugoslavia and the demolition of Belgrade by the German Air Force. That is contained in Document 1746-PS, which is Exhibit GB-120; and that was read by my friend, Colonel Phillimore at an earlier stage so I do not need to read it again.

The final action of this defendant with regard to Yugoslavia was that after the invasion of Yugoslavia Von Ribbentrop was one of the persons directed by Hitler to draw up the boundaries for the partition and division of Yugoslavia. The preliminary directive for that is Document 1195-PS, which I now put in as Exhibit GB-144.

We now come to the aggression against the Soviet Union, and the first...

THE PRESIDENT: Has that been read, 1195?

SIR DAVID MAXWELL-FYFE: No, it has not. I am much obliged, Your Lordship. I will now read the relevant sentence with regard to this.

On Page 2, Section 2, Your Lordship will see the words "the drawing up of boundaries." And in Paragraph 1 it says:

> "Insofar as the drawing up of boundaries has not been laid down in the above Part I, it will be carried out by the Supreme Command of the Armed Forces in agreement with the Foreign Office,"—that is this defendant—"the Delegate for the Four Year Plan,"—the Defendant Göring—"and the Reich Minister of the Interior."

THE PRESIDENT: Who is the Reich Minister of the Interior?

SIR DAVID MAXWELL-FYFE: I think the Defendant Frick.

THE PRESIDENT: Yes, I think it is.

SIR DAVID MAXWELL-FYFE: My Lord, I am grateful to Your Lordship. I had forgotten that had not been read before.

Now then, as I say, we come to the aggression against the Soviet Union; and the first document which has not been put in

so far, which I now put in as Exhibit GB-145, is TC-25, the German-Soviet Non-aggression Pact.

On 23 August 1939 this defendant had signed the German-Soviet Non-aggression Pact. Now the first point at which this defendant seems to have considered special problems of aggression against the Soviet Union was just after the 20th of April 1941, when the Defendant Rosenberg and this defendant met or communicated to consider the problems which were expected to arise in Occupied Eastern Territory. This defendant appointed his Counselor, Grosskopf, to be his liaison man with Rosenberg and also assigned a consul general called Bräutigam, who had many years experience in the U.S.S.R., as collaborator with Rosenberg. That is shown in Document 1039-PS, which is already Exhibit USA-146. I did not propose to read it again, as it had been read. But the passage to which I have referred is the first paragraph on the top of Page 2, beginning, "After notification to the Reich Foreign Minister." It is that paragraph which I have just mentioned.

That was in April 1941. The following month, on 18 May 1941, the German Foreign Office prepared a declaration setting forth operational zones in the Arctic Ocean, the Baltic and the Black Seas, to be used by the German Navy and the Air Force in the coming invasion of the Soviet Union. That is the next document, C-77, which I now put in as Exhibit GB-146, and it is very short. Therefore I think I should quote it; it has not been read before:

> "The Foreign Office has prepared for the use in 'Barbarossa' the attached draft of a declaration of operational zones. The Foreign Office, however, has reserved the decision as to the date when the declaration will be issued as well as the discussion of particulars."

These last two documents show quite clearly that this defendant was again implicated in the preparation for this act of aggression. Then, on the 22d of June 1941, this defendant announced to the world that the German armies were invading the U.S.S.R., as was seen by the Tribunal in the film shown on the 11th of December. And how untrue were the reasons given is shown by the report of his own Ambassador in Moscow who said that everything was being done to avoid a conflict. The Tribunal will find the reference to that in the speech of my learned friend, the Attorney General, the transcript at Page 888 (Volume III, Page 143).

We now come to the aggression which involved Japan and was directed against the United States of America. And there the initial document is 2508-PS, which I now put in as Exhibit GB-147. That shows that on the 25th of November 1936, as a result of negotiations of this defendant as Ambassador-at-large, Germany and Japan had signed the Anticomintern Pact. I do not think

that has been read, but if I might just read the introduction, the recital that gives the purposes of the agreement:

> "The Government of the German Reich and the Imperial Japanese Government, recognizing that the aim of the Communist International, known as the Comintern, is to disintegrate and subdue existing states by all the means at its command, convinced that the toleration of interference by the Communist International in the internal affairs of the nations not only endangers their internal peace and social well-being but is also a menace to the peace of the world, desirous of co-operating in the defense against Communist subversive activities, have agreed as follows...."

And then there follow the effective terms of the agreement under which they will act together for 5 years. It is signed by this defendant.

On the 27th of September 1940 this defendant, as Foreign Minister, signed the Tripartite Pact with Japan and Italy, thereby bringing about a full-scale military and economic alliance for the creation of a "New Order" in Europe and East Asia. That is 2643-PS, Exhibit USA-149, and has been read.

Then, on the 13th of February of 1941—that is a month or two later—this defendant was urging the Japanese to attack British possessions in the Far East. And that is shown in Document 1834-PS, which is Exhibit USA-129 and which has already been read by my friend, Mr. Alderman. That was February.

Then, in April of 1941, at a meeting between Hitler and Matsuoka, representing Japan, at which this defendant was present, Hitler promised that Germany would declare war on the United States in the event of war occurring between Japan and the United States as a result of Japanese aggression in the Pacific. That is shown in Document 1881-PS, Exhibit USA-33, which has already been read and which I did not intend to read again.

Then the next document which reinforces that point is 1882-PS, which is Exhibit USA-153. If I might trouble the Tribunal with just two short paragraphs of that; it is interesting, showing the psychological development of this defendant and his views at that time. They are the first two paragraphs that are quoted, under the heading "Pages 2 and 3," where it begins "Matsuoka"; it is on the first page of the document:

> "Matsuoka then spoke of the general high morale in Germany, referring to the happy faces he had seen everywhere among the workers during his recent visit to the Borsig works. He expressed his regret that developments in Japan were not yet as far advanced as in Germany and that in his country the intellectuals still exercised considerable influence.

"The Reich Foreign Minister replied that at best a nation which had realized its every ambition could afford the luxury of intellectuals, some of whom are parasites, anyway."

THE PRESIDENT: It is "most," according to my document.

SIR DAVID MAXWELL-FYFE: Oh, "most"; I beg Your Lordship's pardon, it is completely my fault, it should be "most," "most of whom are parasites, anyway."

"A nation, however, which has to fight for a place in the sun must give them up. The intellectuals ruined France; in Germany they had already started their pernicious activities when National Socialism put a stop to these doings; they will surely be the cause of the downfall of Britain, which is to be expected with certainty."

Then it continues on the usual lines. That last document was on the 5th of April.

Then, the next stage: Within a month after the German Armies invaded the Soviet Union, the 22d of June 1941, Ribbentrop was urging his Ambassador in Tokyo to do his utmost to cause the Japanese Government to attack the Soviet in Siberia; and that is proved by two documents which have already been put in—2896-PS, which is Exhibit USA-155, a telegram to the German Ambassador, in Tokyo, one Ott; and 2897-PS, USA-156, which is the reply from Ambassador Ott. Both of these were read by my friend, Mr. Alderman, and I won't trouble the Tribunal again.

But the next document, which is D-656, is a new document which I put in as GB-148. That was captured from the Japanese, and it is a message—intercepted—which was sent by the Japanese Ambassador in Berlin just before the attack on the United States. If I might just read one short extract from this defendant's speech; on the 29th of November 1941, that is roughly a week before Pearl Harbor, this defendant was saying—it is in Paragraph 1, and I will read it all because it is new:

"Ribbentrop opened our meeting by again inquiring whether I had received any reports regarding the Japanese-United States negotiations. I replied that I had received no official word.

"Ribbentrop: 'It is essential that Japan effect the New Order in East Asia without losing this opportunity. There never has been and probably never will be a time when closer cooperation under the Tripartite Pact is so important. If Japan hesitates at this time and Germany goes ahead and establishes her European New Order, all the military might of Britain and the United States will be concentrated against Japan.

"'As Führer Hitler said today, there are fundamental differences in the very right to exist between Germany and Japan, and the United States. We have received advice to the effect that there is practically no hope of the Japanese-United States negotiations being concluded successfully because of the fact that the United States is putting up a stiff front.

"'If this is indeed the fact of the case and if Japan reaches a decision to fight Britain and the United States, I am confident that will not only be to the interest of Germany and Japan jointly but would bring about favorable results for Japan herself.'"

Then the Ambassador replied:

"'I can make no definite statement as I am not aware of any concrete intentions of Japan. Is Your Excellency indicating that a state of actual war is to be established between Germany and the United States?'"

The Defendant Ribbentrop:

"'Roosevelt's a fanatic, so it is impossible to tell what he would do.'"

Then:

"Concerning this point, in view of the fact that Ribbentrop has said in the past that the United States would undoubtedly try to avoid meeting German troops, and from the tone of Hitler's recent speech as well as that of Ribbentrop's, I feel that the German attitude toward the United States is being considerably stiffened. There are indications at present that Germany would not refuse to fight the United States if necessary."

Then the next part, Section 2, is an extremely optimistic prognosis of the war against the Soviet Union. I do not think, in view of the date in which we are reading it, that I need trouble the Tribunal with that..

There are then a few remarks about the intended landing operations against England, which is also *vieux jeu* at this time.

If the Tribunal would go to Part 3, there again we get the international attitude of mind of this defendant—at the foot of Page 2, Part 3; and I am quoting:

"'In any event Germany has absolutely no intention of entering into any peace with England. We are determined to remove all British influence from Europe. Therefore, at the end of this war, England will have no influence whatsoever in international affairs. The island empire of Britain may remain, but all of her other possessions throughout the world will probably be divided three ways by Germany, the United

States and Japan. In Africa, Germany will be satisfied with, roughly, those parts which were formerly German colonies. Italy will be given the greater share of the African colonies. Germany desires, above all else, to control European Russia.'"

And after hearing this defendant, the Ambassador said; and I quote:

"'I am fully aware of the fact that Germany's war campaign is progressing according to schedule smoothly. However, suppose that Germany is faced with the situation of having not only Great Britain as an actual enemy but also all of those areas in which Britain has influence, and those countries which have been aiding Britain as actual enemies, as well. Under such circumstances, the war area will undergo considerable expansion, of course. What is your opinion of the outcome of the war under such an eventuality?'"

The Defendant Ribbentrop:

"'We would like to end this war during next year.'"—that is, 1942—"'However, under certain circumstances it is possible that it will have to be continued into the following year.

"'Should Japan become engaged in a war against the United States . . .'"

THE PRESIDENT: You are going a little bit too fast.

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases, I am sorry. I will go back to the paragraph I have just finished.

The Defendant Ribbentrop—and I am still quoting:

"'We would like to end this war during next year. However, under certain circumstances it is possible that it will have to be continued into the following year.

"'Should Japan become engaged in a war against the United States, Germany, of course, would join the war immediately. There is absolutely no possibility of Germany's entering into a separate peace with the United States under such circumstances. The Führer is determined on that point.'"

That document associates this defendant with the aggression by Japan against the United States in the closest possible way.

Another new document, which is also an intercepted Japanese diplomatic message, is the next one, D-657, which I put in as Exhibit GB-149; and if I might read the first two sentences that show what it is—and I quote—the Japanese Ambassador says:

"At 1:00 p. m. today"—the 8th of December—"I called on Foreign Minister Ribbentrop and told him our wish was to have Germany and Italy issue formal declarations of war on America at once. Ribbentrop replied that Hitler was then in

the midst of a conference at general headquarters, discussing how the formalities of declaring war could be carried out so as to make a good impression on the German people, and that he would transmit your wish to him at once and do whatever he could to have it carried out promptly. At that time Ribbentrop told me that on the morning of the 8th"—that is before the declaration of war—"Hitler issued orders to the entire German Navy to attack American ships whenever and wherever they might meet them.

"It goes without saying that this is only for your secret information."

Then, as a matter of fact, as the Tribunal are aware, on the 11th of December 1941 this Defendant Ribbentrop, in the name of the German Government, announced a state of war between Germany and the United States.

The next stage concerns his attempt to get Japan to attack the Soviet Union.

In Ribbentrop's conversations with Oshima, the Japanese Ambassador, in July 1942 and in March and April 1943, he continued to urge Japanese participation and aggression against the Soviet Union. This is shown in Document 2911-PS, which has been put in as Exhibit USA-157 and already read, and Document 2954-PS, which I now put in as GB-150. That is a new document; and if I might just indicate the effect of it by a very short quotation—it is a discussion between the Defendant Ribbentrop and Ambassador Oshima. It begins:

"Ambassador Oshima declared that he has received a telegram from Tokyo; and he is to report, by order of his Government, to the Reich Minister for Foreign Affairs the following:

"The suggestion of the German Government to attack Russia was the object of a common conference between the Japanese Government and the Imperial headquarters, during which the question was discussed in detail and investigated exactly. The outcome is the following: The Japanese Government thoroughly recognize the danger which threatens from Russia and completely understand the desire of their German ally that Japan on her part also enter the war against Russia. However, it is not possible for the Japanese Government, considering the present war situation, to enter the war. They are rather of the conviction that it would be in the common interest not to start the war against Russia now. On the other hand, the Japanese Government will never lose sight of the Russian question."

And then, in the middle of the next paragraph, this defendant returns to the attack. The third sentence—it begins on the fourth line—says:

> "However, it would be more correct that all powers allied in the Three Power Pact, would combine their forces to strike together at not only England and America, but also Russia. It is not good if one part must fight alone."

Then the pressure on Japan to attack Russia is shown again in the next document, 2929-PS, which was put in as Exhibit USA-159. And, if I might just close this part of the case, if I might read that—it is very short:

> "The Reich Minister for Foreign Affairs then stressed again that without any doubt this year presented the most favorable opportunity for Japan, if she felt strong enough and had sufficient antitank weapons at her disposal to attack Russia, which certainly would never again be as weak as at the moment"—the moment being 18 April 1943.

If the Tribunal please, that concludes my evidence on the second allegation dealing with aggressive war; and I submit that that allegation in the Indictment is more than amply proved.

The third allegation is that the Defendant Ribbentrop authorized, directed, and participated in War Crimes and Crimes against Humanity.

Of course, I am considering this from the point of view of planning these crimes only. The execution of the crimes will be dealt with by my friends and Soviet colleagues, but it is relevant to show how this defendant participated in the planning of such crimes. I deal, first, with the killing of Allied aviators; secondly, with the destruction of peoples in Europe; and thirdly, with the persecution of the Jews.

First, the killing of Allied aviators:

With the increasing air raids on German cities in 1944 by Allied Air Forces, the German Government proposed to undertake a plan to deter Anglo-American fliers from further raids on the Reich cities. In a report of a meeting at which a definite policy was to be established, there is stated what was the point of view that this Defendant Ribbentrop had been urging. That is in Document 735-PS, which I now put in as Exhibit GB-151. That is a discussion of a meeting at the Führer's headquarters on the 6th of June 1944. If I might read the first paragraph:

> "Obergruppenführer Kaltenbrunner informed the Deputy Chief of Operations Staff"—WFSt—"in Klessheim on the afternoon of the 6th of June that a conference on this question had been held shortly before by the Reich Marshal"—the

Defendant Göring—"the Reich Foreign Minister"—the Defendant Von Ribbentrop—"and the Reichsführer SS."—Himmler—"Contrary to the original suggestion made by the Reich Foreign Minister, who wished to include every type of terror attack on the German civilian population, including bombing attacks on cities, it was agreed in the above conference that merely those attacks carried out with aircraft armament aimed directly at the civilian population and their property should be taken as the standard for the evidence of a criminal action in this sense. Lynch law would have to be the rule, there was no mention of trial by court-martial or handing over to the police."

That is, this defendant was pressing that even where there was an attack on a German city, the airmen should be handed over to be lynched by the crowd. The others were saying that that should be restricted to cases where there were attacks by machine guns, and the like, on the civilian population.

I do not think we need trouble with Paragraph (a) of the statement of the Deputy Chief of WFSt. The importance of (a) goes because Kaltenbrunner says that there were no such cases as were mentioned.

If you look at (b):

"The Deputy Chief of the WFSt pointed out that, besides the lynch law, a procedure must be worked out for segregating such enemy aviators who are suspected of criminal action of this kind by sending them to the reception camp for aviators at Oberursel and, if the suspicion was confirmed, handing them over to the SD for special treatment."

As I understand that, it is that if they were not lynched under the first scheme, by the crowd, then they were to be kept from prisoners of war, where they would, of course, be subject to the protecting power's intervention. And if the suspicion was confirmed, they would be handed over to the SD to be killed.

Then in Paragraph 3 we have what was decided to justify the lynch law. Paragraph 3 says:

"At a conference with Colonel Von Brauchitsch (Colonel of the Air Force) on the 6th of June, it was settled that the following actions are to be regarded as terror actions justifying lynch law:

"Low-level attacks with aircraft armament on the civilian population, single persons as well as crowds.

"Shooting in the air our own (German) men who had bailed out.

"Attacks with aircraft armament on passenger trains in the public service.

"Attacks with aircraft armament on military hospitals, hospitals, and hospital trains, which are clearly marked with the red cross."

These were to be the subject of lynching and not, as this defendant had suggested, a case where there was the bombing of a city.

Then on the next page, the last page of this document, we have a somewhat curious comment from the Defendant Keitel:

"Remarks by the Chief of the OKW on the agenda dated 6 June 1944."

The number is that of the document at which the Tribunal has just been looking.

"Most secret; Staff officers only.

"If one allows the people to carry out lynch law, it is difficult to enforce rules.

"Ministerial Director Berndt got out and shot the enemy aviator on the road. I am against legal procedure. It doesn't work out."—Signed—"Keitel."

Then the Defendant Jodl's comment appears:

"This conference is insufficient. The following points must be decided quite definitely in conjunction with the Foreign Office:

"1. What do we consider as murder? Is the Foreign Office in agreement with point 3b?

"2. How should the procedure be carried out? a. By the people? b. By the authorities?

"3. How can we guarantee that the procedure will not be also carried out against other enemy aviators?

"4. Should some legal procedure be arranged or not?"—Signed—"Jodl."

It is important, I respectfully submit, to note that this defendant and the Foreign Office were fully in on these breaches of the laws and usages of war, and indeed the clarity with which the Foreign Office perceives that there were breaches of the laws and usages of war, is shown by the next document, which is 728-PS, which I now put in as GB-152. That is a document from the Foreign Office, approved of by the Defendant Ribbentrop and transmitted by one of his officials called Ritter; and the fact that it is approved by this defendant is specifically stated in the next Document 740-PS, which I put in as GB-153. I do not think this Document 728-PS has been read before, and therefore, again, I would like to read just one or two passages in it. It begins:

"In spite of the obvious objections, based on international law and foreign policy, the Foreign Office is basically in agreement with the proposed measures.

"In the examination of the individual cases a distinction must be made between the cases of lynching and the cases of special treatment by the SD.

"I. In the cases of lynching, the precise establishment of the facts involving punishment, according to points 1 through 4 of the communication of 15 June, is not very essential. First, the German authorities are not directly responsible, since the death will have occurred before a German official becomes concerned with the case. Furthermore, the accompanying circumstances will be such, that it will not be difficult to represent the case in an appropriate manner upon publication. Hence, in cases of lynching it will be of primary importance correctly to handle the individual case upon publication.

"II. The suggested procedure for special treatment by the SD, including subsequent publication, would be feasible only if Germany would at the same time openly repudiate the commitments of international law, at present in force and still recognized by Germany. When an enemy aviator is seized by the Army or by the Police and is delivered to the reception camp for aviators at Oberursel, he has acquired by this very fact the legal status of a prisoner of war.

"The Prisoner-of-War Agreement of 27 July 1929 established definite rules for the prosecution and sentencing of prisoners of war and the execution of the death penalty, as for example in Article 66: Death sentences may be carried out only 3 months after the Protecting Power has been notified of the sentence. In Article 63: A prisoner of war will be tried only by the same courts and under the same procedure as members of the German Armed Forces. These rules are so specific that it would be futile to try to cover up any violation of them by clever wording of the publication of an individual incident. On the other hand, the Foreign Office cannot recommend on this occasion a formal repudiation of the Prisoner-of-War Agreement.

"An emergency solution would be to prevent suspected enemy fliers from ever attaining a legal prisoner-of-war status, that is, that immediately upon capture they be told that they are not considered prisoners of war but criminals, that they would not be turned over to the agencies having jurisdiction over prisoners of war, hence not go to a prisoner-of-war camp, but that they be delivered to the authorities in charge of the prosecution of criminal acts, and that they be tried in summary proceedings. If the evidence at the trial should reveal that the special procedure is not applicable to a particular case, the fliers concerned may subsequently be given the

status of prisoner of war by transfer to the reception camp for aviators at Oberursel.

"Naturally, not even this expedient will prevent the possibility of Germany's being accused of violation of existing treaties or even the adoption of reprisals upon German prisoners of war. At any rate this solution would enable us to follow a clearly defined course, thus relieving us of the necessity of openly having to renounce the present agreements or of the need of having to use excuses which no one would believe, upon the publication of each individual case."

I do not want to take this in detail, but I ask the Tribunal to look at the first sentence of Section III:

"It follows from the above that the main weight of the action will have to be placed on lynchings. Should the campaign be carried out to such an extent that the purpose, to wit: the deterrence of enemy aviators, is actually achieved, which goal is favored by the Foreign Office, then the strafing attacks by enemy fliers directing the fire of their weapons upon the civilian population must be stressed in a completely different propagandist manner than heretofore."

I don't think I need trouble the Tribunal, but that shows quite clearly the defendant's point of view. If the Tribunal would look at the next document, it is stated at the beginning of the second paragraph:

"Ambassador Ritter has advised us by telephone on 29 June that the Minister for Foreign Affairs has approved this draft. . . ."

That is the position as to the treatment of aviators, where there is, in my suggestion, a completely cold-blooded and deliberate adoption of a procedure evading international law.

The second section is the destruction of the peoples in Europe. With regard to Poland, again I want scrupulously to avoid going into details; but I remind the Tribunal of the evidence of the Witness Lahousen, which appears in the transcript, Pages 618 and 619 (Volume II, Pages 448-449) on the 30th of November of last year, and on Pages 713 to 716 (Volume III, Pages 20-25), when he was cross-examined on the 1st of December.

Secondly, Bohemia and Moravia: On the 16th of March 1939 there was promulgated the decree of the Führer and Reich Chancellor, signed by Ribbentrop, concerning the Protectorate of Bohemia and Moravia. That is already in as Exhibit GB-8, Document TC-51. The effect of that was to place the Reich Protector in a remarkable position of supremacy under the Führer. The only part which I would like the Tribunal to have in mind is Article 5 and Subarticle 2:

"2. The Reich Protector, as representative of the Führer and Chancellor of the Reich and as Commissioner of the Reich Government, is charged with the duty of seeing to the observance of the political principles laid down by the Führer and Chancellor of the Reich.

"3. The members of the Government of the Protectorate shall be confirmed by the Reich Protector. The confirmation may be withdrawn.

"4. The Reich Protector is entitled to inform himself of all measures taken by the Government of the Protectorate and to give advice. He can object to measures calculated to harm the Reich and, in cases of danger, issue ordinances required for the common interest.

"5. The promulgation of laws, decrees, and other legal provisions and the execution of administrative measures and legal judgments shall be suspended if the Reich Protector enters an objection."

As a result of this law, the two Reich Protectors of Bohemia and Moravia and their various deputies were appointed; and then there were committed the various crimes which will be detailed by my Soviet colleague.

Similarly, with regard to the Netherlands on the 18th of May 1940, a decree of the Führer was signed by Ribbentrop concerning the exercise of governmental authority in the Netherlands, and that—Document 639-PS, which I put in as Exhibit GB-154, Section 1—says:

"The Occupied Netherlands Territories shall be administered by the Reich Commissioner for the Occupied Netherlands Territories . . . the Reich Commissioner is guardian of the interests of the Reich and vested with supreme civil authority.

"Dr. Arthur Seyss-Inquart is hereby appointed Reich Commissioner for the Occupied Netherlands Territories."

On the basis of this decree, the Reich Commissioner—the Defendant Seyss-Inquart—promulgated such orders as that of the 4th of July 1940, dealing with the confiscation of property of those who had, or might have, furthered activities hostile to the German Reich; and tentative arrangements were made for the resettlement of the Dutch population. But all this will also be dealt with fully by my French colleagues.

I simply for the moment put in as a matter of reference the general order of the Defendant Seyss-Inquart, which is GB-155, the document being 2921-PS. I do not intend to read it. I have summarized the effect of it and it will be dealt with more fully by my French colleagues.

I want the Tribunal to appreciate, with regard to these two matters, Bohemia and the Netherlands, that the charge against this

defendant is laying the basis and procuring the governmental structure under which the War Crimes and Crimes against Humanity were directed.

I should also put in formally Exhibit GB-156, the discussion on the question of the Dutch population, which is contained in Document 1520-PS. Again I have explained it generally and I do not want to occupy time by reading it in full now.

Then coming to the Jews: In December 1938 the Defendant Ribbentrop, in a conversation with M. Bonnet, who was then Foreign Minister of France, expressed his opinion of the Jews. That was reported by the United States Ambassador, Mr. Kennedy, to the State Department. The report of Mr. Kennedy is Document L-205, which I now put in as Exhibit GB-157. If I might read to the Tribunal the second paragraph, which concerns this point:

> "During the day we had a telephone call from Berenger's office in Paris. We were told that the matter of refugees had been raised by Bonnet in his conversation with Von Ribbentrop. The result was very bad. Ribbentrop, when pressed, had said to Bonnet that the Jews in Germany, without exception, were pickpockets, murderers, and thieves. The property they possessed had been acquired illegally. The German Government had therefore decided to assimilate them with the criminal elements of the population. The property which they had acquired illegally would be taken from them. They would be forced to live in districts frequented by the criminal classes. They would be under police observation like other criminals. They would be forced to report to the police as other criminals were obliged to do. The German Government could not help it if some of these criminals escaped to other countries which seemed so anxious to have them. It was not, however, willing for them to take the property which had resulted from illegal operations with them. There was in fact nothing that it could or would do."

That succinct statement of this defendant's views on Jews is elaborated in a long document which he had sent out by the Foreign Office, which is numbered 3358-PS, which I put in as Exhibit GB-158. I do not want to read the whole of that document because it is excessively dreary; it is also an excessively clear indication of the defendant's views on the treatment of Jews. But if the Tribunal would look at, first of all, Page 3—it is headed, "The Jewish Question as a Factor in German Foreign Policy in the Year 1938"; after the four divisions the document goes on to say:

> "It is certainly no coincidence that the fateful year 1938 has brought nearer the solution of the Jewish question simultaneously with the realization of the 'idea of Greater Germany,'

since the Jewish policy was both the basis and consequence of the events of the year 1938."

That is elaborated. If the Tribunal will turn over to Page 4 at the beginning of the second paragraph, they will see the first sentence:

"The final goal of German Jewish policy is the emigration of all the Jews living in Reich territory."

Then that is developed at great length through a large number of pages. The conclusion which is—if the Tribunal would turn to the foot of Page 7 and examine it—it goes on this way:

"These examples from reports from authorities abroad can, if desired, be amplified. They confirm the correctness of the expectation that criticism of the measures for excluding Jews from German Lebensraum, which were misunderstood in many countries for lack of evidence, would be only temporary and would swing in the other direction the moment the population saw with its own eyes and thus learned what the Jewish danger was to them. The poorer and therefore the more burdensome the immigrant Jew is to the country absorbing him, the stronger this country will react and the more desirable is this effect in the interest of German propaganda. The object of this German action is to be a future international solution of the Jewish question, dictated not by false compassion for the 'United Religious Jewish Minority' but by the full consciousness of all peoples of the danger which it represents to the racial composition of the nations."

The Tribunal will appreciate that this document was circulated by the defendant's ministry, widely circulated to all senior Reich authorities and to numerous people before the war, on the 25th of January 1939, just after the statement to M. Bonnet. Apparently the anti-Semitism of the defendant went from—I was going to say from strength to strength, if that is the correct term, or at any rate from exaggeration to exaggeration, for in June 1944 the Defendant Rosenberg made arrangements for an international anti-Jewish congress to be held in Kraków on the 11th of July 1944. The honorary members were to be Von Ribbentrop, Himmler, Goebbels, and Frank—I think the Defendant Frank. The Foreign Office was to take over the mission of inviting prominent foreigners from Italy, France, Hungary, Holland, Arabia, Iraq, Norway, *et cetera,* in order to give an international aspect to the congress. However, the military events of June 1944 prompted Hitler to call off the congress which had lost its significance by virtue of the landings in Normandy.

That is contained in Document 1752-PS, GB-159. At the foot of Page 1 the Tribunal will see the following had been entered as honorary members: Reich Foreign Minister Joachim von Ribbentrop.

So that there is no doubt that this defendant was behind the program against the Jews which resulted in the placing of them in concentration camps with anyone else who opposed the Nazi way of life; and it is submitted that he must, as a minister in special touch with the head of the government, have known what was going on in the country and in the camps. One who preached this doctrine and was in a position of authority cannot, I submit to anyone who has had any ministerial experience, suggest that he was ignorant of how the policy was carried out.

That is the evidence on the third allegation and it is submitted that by the evidence which I have recapitulated to the Tribunal the three allegations are proved.

With regard to the second, Hitler's own words were:

"In the historic year of 1938 the Foreign Minister, Von Ribbentrop, was of great help to me by virtue of his accurate and audacious judgment and admirably clever treatment of all problems of foreign policy."

During the course of the war this defendant was in close liaison with the other Nazi conspirators. He advised them and made available to them, in his embassies and legations abroad, information which was required and at times participated, as I have shown, in the planning of War Crimes and Crimes against Humanity.

It is submitted that all the allegations which I read from Appendix A of the Indictment are completely proved against this defendant. I want, if the Tribunal will allow me, to add only one fact on behalf of the British Delegation. In the preparation of these briefs we have received great assistance from certain of our American colleagues; and I should like to thank once, but nonetheless heartily, on behalf of us all, Dr. Kempner's staff: Captains Auchincloss, Claggett, and Stoll, Lieutenants Felton and Heller, and Mr. Lachmann for the great help they have been to us.

THE PRESIDENT: We will adjourn now for 10 minutes.

[A recess was taken.]

DR. ALFRED SEIDL (Counsel for the Defendant Frank): May it please the Tribunal, I have a motion to make.

THE PRESIDENT: On behalf of whom?

DR. SEIDL: I want to make a motion which concerns the indictment of Frank.

The Charter of the Tribunal contains, in Part IV, regulations for a fair trial, and Article 16 prescribes that for the purpose of safeguarding the right of the defendants the following procedure shall be followed. "The Indictment shall include full particulars

specifying in detail the charges against the defendant. A copy of the Indictment, and of all the documents lodged with the Indictment, translated into a language which he understands, shall be furnished to the defendant at a reasonable time before the Trial."

At the beginning of the Trial the Defendant Frank was handed a copy of the Indictment. This is the Indictment which was read on the first day. This is, if I may say so, a general indictment. All actions are listed therein which, according to the opinion of the Signatories of the London Agreement, are regarded as Crimes against Peace, War Crimes, and Crimes against Humanity. The Indictment does not contain in detail the criminal actions of each defendant. I am now thinking about positive actions or concrete actions or omissions.

This morning I received a document. It has the title, "The Individual Responsibility of the Defendant Hans Frank for Crimes against Peace, War Crimes, and Crimes against Humanity"—or in German "Die persönliche Verantwortlichkeit des Angeklagten Frank für Verbrechen gegen den Frieden, für Kriegsverbrechen und Verbrechen gegen die Menschheit." This document is without any table of contents. It consists of 30 typewritten pages. In addition to this document, or indictment, as I should like to call it, another document book has been given to me, namely, "Document Book Hans Frank." The first document, as well as the second document is not in German but in English. This first document is in reality what I should call the indictment against Frank, because here in this document of 30 pages for the first time those individual activities of Frank are listed which are to be regarded as criminal actions. At least one ought to say that this document is an essential part of the Indictment...

THE PRESIDENT: Forgive me for interrupting you. The Tribunal has already expressed its desire that a motion such as this should be made in writing. The Tribunal considers that a motion of the sort which you are now making orally is a waste of the Tribunal's time and it therefore desires you to put your motion in writing. It will then be considered.

DR. SEIDL: I regret myself that I must make this motion now, but I was not able to make this motion in writing before receiving this document only two and a half hours ago. My motion is that the Prosecution should submit these two documents to the Defendant Frank in the German language.

THE PRESIDENT: The Tribunal has not got the documents to which you are referring. It is quite impossible for us to understand the motion you are making unless you make it in writing and attach the documents or in some other way describe or explain to

us what the documents are. We have not got the documents that you are referring to.

DR. SEIDL: Then I shall make my motion in writing.

THE PRESIDENT: Mr. Roberts, can you explain to me what the counsel who has just spoken is complaining about?

MR. G. D. ROBERTS (Leading Counsel for the United Kingdom): I gather he was complaining that the trial brief and the document book which had been served on his client, Frank, were in English and not in German.

THE PRESIDENT: Who is dealing with the case against Frank?

MR. ROBERTS: It is being dealt with by the United States.

THE PRESIDENT: Perhaps I had better ask Colonel Storey then.

COLONEL ROBERT G. STOREY (Executive Trial Counsel for the United States): If the Tribunal please, I think what counsel is referring to is the practice we have made of delivering in advance a copy of the document book and a copy of the trial brief. In this particular instance I happen to know that what counsel refers to is the trial address, which is to be read over the microphone, and as a courtesy to counsel they have been delivered in advance of the presentation, just like all the other document books and briefs against the other individual defendants. That's what it is, as I understand it.

THE PRESIDENT: The documents which will be presented against the Defendant Frank will be all translated?

COL. STOREY: I am sure they are; yes, Sir. I don't know about the individual case, but the instructions are that the documents will have two photostats, each one in German, plus the English translation, for counsel, and that is what has been delivered, plus the trial address, if Your Honor pleases. We handed that to him in advance—what the attorney will read over the microphone.

THE PRESIDENT: Colonel Storey, I thought the Tribunal ordered, after consulting the prosecutors as to the feasibility of the scheme, that sufficient translators should be supplied to the defendants' counsel so that such documents as trial briefs, if in the English language, might be translated to defendants' counsel. You will remember it was suggested that at least four translators, I think, should be supplied to the defendants' counsel.

COL. STOREY: If the Tribunal will recall, I think this is what was finally determined; that document books and briefs could be submitted in English and the photostatic copies submitted to defendants' counsel and that if they wanted additional copies of the German, then they should request them and they would be furnished. I think that is what the final order was.

THE PRESIDENT: There was, at any rate, a suggestion that translators should be ordered to translate such documents as trial briefs.

COL. STOREY: That is correct; yes, Sir, and whenever counsel wanted more copies, then they would request them and they would be available for them. The translators or translations or photostats would be available if they requested them.

Were there any other questions, Your Honor?

THE PRESIDENT: Do you mean that translators have not been supplied to defendants' counsel?

COL. STOREY: If Your Honor pleases, as I understand, the defendants' Information Center is now under the jurisdiction of the Tribunal, and my information is—I would like to check it—that when they want extra copies all they have to do is ask for them and they may obtain them and sufficient translators are available to provide the extra copies if they want them. That is my information. I have not checked it in the last few days, but sufficient copies in English are furnished for all the counsel; and these briefs and document books are furnished to them in advance. In this case I am told that the document book and the briefs were furnished.

THE PRESIDENT: Yes.

DR. FRITZ SAUTER (Counsel for Defendants Funk and Von Schirach): Your Honor, you may be assured that we Defense Counsel do not like to take up the time of the Tribunal for such discussions which we ourselves would rather avoid. But the question just raised by a colleague of mine is really very unpleasant for us Defense Counsel and makes our work extremely difficult for us.

You see, it does not help us if agreements are made or regulations are issued and in actual practice it is entirely different.

Last night, for example, we received a big volume of documents all of which were in English. Now, in the evening in the prison we are supposed to spend hours discussing with our clients the results of the proceedings, a task which has now been rendered still more difficult by the installation of wire screens in the consultation room. In addition we are also required to talk over whole volumes of documents written in English, and that is practically impossible. Time and again these documents are not received until the evening before the day of the proceedings; and it is not possible, even for one who knows English well, to make the necessary preparation.

The same thing is true of the individual trial briefs; and I do not know whether the actual trial briefs, such as we receive for each defendant, have also been submitted to the Tribunal.

THE PRESIDENT: Nearly every document which has been referred to in this branch of the case, which has been presented by Mr. Albrecht and by Sir David Maxwell-Fyfe, are documents which have been referred to previously in the Trial and which must have been before the defendants' counsel for many days—for weeks—and therefore there can be no lack of familiarity with those documents. The documents which have been referred to, which are fresh documents, are very few indeed and the passages in them which are now being put in evidence are all read over the microphone and, therefore, are heard by defendants' counsel in German and can be studied by German counsel tomorrow morning in the transcript of the shorthand notes; and I do not see, therefore, what hardship is being imposed upon German counsel by the method which is being adopted.

You see, the Counsel for the Prosecution, out of courtesy to Counsel for the Defense, have been giving them their trial briefs in English beforehand. But there is no strict obligation to do that; and insofar as the actual evidence is concerned, all of which is contained in documents, as I have already pointed out to you, the vast majority of those documents have already been put in many days ago and have been in the hands of German counsel ever since, in the German language—and also the documents which are now put in.

DR. SAUTER: No, this is not true, Your Honor. This is the complaint which we of the Defense Counsel, because we dislike to approach the Tribunal with such complaints, have been discussing among ourselves—the complaint that we do not receive German documents. You may be assured, Mr. President, that if things were as you believe, none of us would complain but we would all be very grateful; but in reality it is different.

THE PRESIDENT: But Dr. Sauter, surely when you have a reference to a German document, that German document is available to you in the Information Center; and as these documents have been put in evidence, some of them as long ago as the 20th of November or shortly thereafter, surely there must have been adequate time for defendants' counsel to study them.

DR. SAUTER: Suppose, for instance, I receive this morning a volume on Funk. I know, for instance, when Funk's case comes on—perhaps tomorrow. It is quite impossible for me to study this volume of English documents upon my return from the prison at 10 o'clock in the evening. That simply overtaxes the physical

strength of a Defense Counsel. I could go through it if it were in German, but even so, it is impossible for me after finishing my visit to the prison at 9 or 10 o'clock in the evening to go through such a volume. We absolutely cannot do it.

THE PRESIDENT: You see, Dr. Sauter, it is not as though you had to cross-examine witnesses immediately after the evidence is given. The documents are put in and it is not for you then to get up and argue upon the interpretation of those documents. You have, I regret to say, a considerable time before you will have to get up and call your own evidence and ultimately to argue upon the documents which are now being put in. Therefore, it is not a question of hours, it is a question of days and weeks before you will have to deal with these documents which are now being put in. And I really do not see that there is any hardship upon defendants' counsel in the system which is being adopted.

And you will not forget that the rule, which, in a sense, penalizes the Prosecution, is that every document which is put in evidence and every part of the document which is put in evidence, has to be read in open court, in order that it should be translated over the earphones and then shall get into the shorthand notes. I am told that the shorthand notes are not available in German the next morning but are available only some days afterwards. But they are ultimately available in German. And therefore every defendant's counsel must have a complete copy of the shorthand notes, at any rate up to the recess; and that contains all the evidence given against the defendants, and it contains it in German.

DR. SAUTER: Yes, Mr. President, what we are most anxious to have done and what we have been asking for many weeks is that the documents, or at least those parts of the document which come into question, should be given to us in German translation. It is very difficult for us, even if we know English, to translate the documents in the time which is at our disposal. It is practically impossible for any of us to do this. It is for this reason that we regret that our wish to get the documents in German is not being taken into consideration. We are conscious of the difficulties and we are very grateful for any assistance given. We assure you we are very sorry to have to make such requests, but the conditions are really very difficult for us. The last word I wish to say is that the conditions are really very difficult for us.

THE PRESIDENT: Dr. Sauter, I am most anxious and the other members of the Tribunal are most anxious that every reasonable facility should be afforded to the defendants and their counsel. But, as I have pointed out to you, it is not necessary for you, for any of you, at the present moment, to get up and argue upon these documents which are now being put in. By the time that you have

to get up and argue upon the documents which are now being put in, you will have had ample time in which to consider them in German.

DR. SAUTER: Thank you, Sir.

HERR GEORG BOEHM (Counsel for the SA): I have repeatedly asked to receive copies of everything presented in English. The accusation against the SA was presented on the 19th or 18th of December, and at the same time a document book was presented. Today I received a few photostats, but I have not received the greater part of the photostats or other pertinent translations. This shows that we do not receive the German translations immediately after the presentation. Nor are we ever able to read the transcript of the proceedings on the next day or on the day after that. The minutes of the session . . .

THE PRESIDENT: We are not dealing with the SA or the organizations at the present moment. If you have any motion to make, you will kindly make it in writing, and we will now proceed with the part of the Trial with which we are dealing.

HERR BOEHM: Mr. President, will you permit me one more remark? The minutes of December 17 and 18, 1945 I have received today.

THE PRESIDENT: Do you mean the transcript of it?

HERR BOEHM: I received today the German transcript for the 18th and 19th of December 1945. You see, it is not a fact that we receive the transcript the day after or a few days after the session. I received it weeks later, after I asked for it repeatedly. I have asked the appropriate offices repeatedly to give me a copy of the document book in German, and I have still not received it.

THE PRESIDENT: Well, we will inquire into that. One moment.

[There was a pause in the proceedings while the Judges conferred.]

THE PRESIDENT: Will the last counsel who was speaking stand up?

I am told that the reason for the delay in the case you have mentioned was that there had been an error in the paging and therefore the transcripts of those shorthand notes had to be recopied. I understand that the delay ordinarily is not anything like so long as that delay.

HERR BOEHM: But I hardly believe that in the case of the translation of the document book the delay is due to those reasons. But even if the delay in this particular case should be justified, it means that week after week I am hampered in my defense. I do not know the day before what is going to be presented, and

I do not know until weeks afterwards what has been presented. I am therefore not in a position to study the evidence from the standpoint of a Defense Counsel. I do not even know what is contained in the document book. I am thus obviously handicapped in my defense in every way. The Prosecution keeps saying that it will furnish the documents on time. This is apparently not the case.

THE PRESIDENT: Perhaps you will kindly make your complaint in writing and give the particulars of it. Do you understand that?

HERR BOEHM: Yes.

THE PRESIDENT: Very well.

MR. ROBERTS: May it please the Tribunal, it is my duty to present the evidence against Keitel and also against the Defendant Jodl and I would ask the Tribunal for permission, if it is thought right, that those two cases should be presented together in the interest of saving time, a matter which I know we all have at heart.

The story with regard to Keitel and Jodl runs on parallel lines. For the years in question they marched down the same road together. Most of the documents affect them both, and in those circumstances, I submit, it might result in a substantial saving of time if I were permitted to present the cases against both of them together.

THE PRESIDENT: Yes.

MR. ROBERTS: Then I shall proceed, if I may, on that basis.

My Lords, may I say that I fully recognize that the activities of both these defendants have been referred to in detail many times and quite recently by Colonel Telford Taylor, and my earnest desire is to avoid repetition as far as I possibly can. And may I say I welcome any suggestions, as I travel the road, which the Tribunal have to make, to make my presentation still shorter.

There is a substantial document book, Document Book Number 7, which is a joint document book dealing with both the defendants. Practically all the documents in that book have already been referred to. They nearly all, of course, have a German origin. I propose to read passages from only nine new documents and those nine documents, I think, are shown in Your Lordship's bundle and in the bundles of your colleagues.

May I commence by referring, as shortly as may be, to the part of the Indictment which deals with the two defendants. That will be found on Page 33 (Volume I, Page 77) of the English translation. It begins with "Keitel" in the middle of the page, and it

says, "The Defendant Keitel between 1938 and 1945" was the holder of various offices. I only want to point out there that although the commencing date is 1938 the Prosecution rely on certain activities of the Defendant Keitel before 1938, and we submit that we are entitled so to do because of the general words appearing on Page 28 of the Indictment (Volume I, Page 68) at the head of the appendix:

> "The statements hereinafter set forth following the name of each individual defendant constitute matters upon which the Prosecution will rely *inter alia* as establishing the individual responsibility . . . ."

And then the Tribunal will see:

> ". . . Keitel used the foregoing positions, his personal influence, and his intimate connection with the Führer in such a manner that: He promoted the military preparations for war set forth in Count One . . . ."

If I may read it shortly—he participated in the planning and preparation for wars of aggression and in violation of treaties, he executed the plans for wars of aggression and wars in violation of treaties, and he authorized and participated in War Crimes and Crimes against Humanity.

Then, "The Defendant Jodl between 1932 and 1945 was" the holder of various positions. He "used the foregoing positions, his personal influence, and his close connection with the Führer in such a manner"—and this is not to be found in the text relating to Keitel—"that: He promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany . . . ."

May I say, My Lords, here, that I know of no evidence at the moment to support that allegation that he promoted the Nazi rise to power before 1933. There is plenty of evidence that he was a devoted, almost a fanatical admirer of the Führer, but that, I apprehend, would not be enough.

And then it is alleged against Jodl that he promoted the preparations for war, that he participated in the planning and preparation of the war, and that he authorized and participated in War Crimes and Crimes against Humanity.

My Lords, with regard to the position of the Defendant Keitel, it is well-known that in February of 1938 he became Chief of the OKW, Supreme Commander of all the Armed Forces, and that Jodl became Chief of the Operations Staff; and that is copiously proved in the shorthand notes and in the documents. Perhaps I ought to refer to his position in 1935, at the time when the reoccupation of the Rhineland was first envisaged. Keitel was head of the Wehrmachtsamt in the Reich War Ministry, and that is proved by a

Document 3019-PS, which is to be found in *Das Archiv*; and I ask the Court to take judicial notice of that. It is not in the bundle.

Jodl's positions have been proved by his own statement, Document 2865-PS, which is also Exhibit USA-16; and in 1935 he held the rank of lieutenant colonel, Chief of the Operations Department of the Landesverteidigung.

May I just refer to the pre-1938 period—that is, the pre-OKW period—to two documents, one of which is new. The first document I desire to mention without reading is EC-177. I do not want to read it. It is Exhibit USA-390. My Lords, those are the minutes, shortly after the Nazi rise to power, of the working committee of the Delegates for Reich Defense. The date is the 22d of May 1933. Keitel presided at that meeting. The minutes have been read. There is a long discussion as to the preliminary steps for putting Germany on a war footing. Keitel regarded the task as most urgent, as so little had been done in previous years; and perhaps the Tribunal will remember the most striking passage where Keitel impressed the need for secrecy: Documents must not be lost; oral statements can be denied at Geneva.

And I submit, if I may be allowed to make this short comment, it is interesting to see in those very early days of 1933 that the heads of the Armed Forces of Germany contemplated using lying as a weapon.

My Lord, the next document I desire to refer to is a new one, and it is EC-405, Exhibit GB-160. I desire to refer to this shortly because, in my submission, it fixes Jodl with knowledge of, and complicity in, the plan to reoccupy the Rhineland country, contrary to the Versailles Treaty. The Tribunal will see that these are the minutes of the working committee of the Reich Defense Council, dated the 26th of June 1935.

The Court will see that, a quarter of the way down the page, Subparagraph F, Lieutenant Colonel Jodl gives a dissertation on mobilization preparation; and it is only the fourth and fifth paragraphs on that same page, the last paragraph but one from the bottom, that I desire to read:

> "The demilitarized zone requires special treatment. In his speech of the 21st of May and other utterances, the Führer has stated that the stipulations of the Versailles Treaty and the Locarno Pact regarding the demilitarized zone are being observed. To the *aide-mémoire* of the French *chargé d'affaires* on recruiting offices in the demilitarized zone, the Reich Government has replied that neither civilian recruiting authorities nor other offices in the demilitarized zone have been entrusted with mobilization tasks, such as the raising,

equipping, and arming of any kind of formations for the event of war or in preparation therefor.

"Since political complications abroad must be avoided at present"—I stress the "at present"—"under all circumstances, only those preparatory measures that are urgently necessary may be carried out. The existence of such preparations or the intention of making such preparations must be kept in strictest secrecy in the zone itself as well as in the rest of the Reich."

My Lord, I need not read more. I submit that fixes Jodl clearly with knowledge of the forthcoming breach of Versailles.

My Lord, the day before the Rhineland was reoccupied on the 7th of March 1936, the Defendant Keitel issued the directive which has been read before, Document C-194, Exhibit USA-55, ordering an air reconnaissance and certain U-boat movements in case any other nation attempted to interfere with that reoccupation.

My Lords, I pass now to the 4th of February 1938, when the OKW was formed. My Lords, shortly after its formation there was issued a handbook, which is a new exhibit, from which I want to read short passages. The number of the exhibit is L-211. It is Document GB-161. Now, this is dated 19 April 1938; "top secret; Direction of War as a Problem of Organization." I read only from the appendix which is entitled, "What is the War of the Future?"; and if the Court will kindly turn over to the second page, I am going to read, 12 lines from the bottom of the page, the line beginning "Surprise":

"Surprise as the requisite for quick initial success will often require hostilities to begin before mobilization has been completed or the armies are fully in position.

"A declaration of war is no longer necessarily the first step at the start of a war.

"According to whether the application of the rules of warfare create greater advantages or disadvantages for the warring nations, will the latter consider themselves at war or not at war with the neutral states."

It may, of course, be said that those were only theoretical words and they might apply to any other nation which might be minded to make war on Germany. The Court can use its judicial notice of the conditions of things in Europe in 1938 and ask itself whether Germany had any potential aggressor against her.

But, My Lord, I emphasize that passage because I submit it so clearly envisages exactly the way in which Germany did make war in 1939 and in the subsequent years.

My Lord, I now start to tread the road which has been trodden so many times and which will be trodden so many times again, the road from 1938 to 1941: the final act of aggression. My Lord, I believe that I can treat this, so far as Keitel and Jodl are concerned, in a very few sentences, because I submit that the documents which are already in, which have been read and reread into the record, demonstrate quite clearly that Keitel, as would only be expected, he being Chief of the Supreme Command of all the Armed Forces, and Jodl, as only would be expected also, he being Chief of the Operations Staff, were vitally and intimately concerned with every single act of aggression which took place successively against the various victims of Nazi aggression.

My Lord, Your Lordship has in front of you the document book and perhaps the trial brief in which those documents are set out under the heading. If I might take first the aggression against Austria, Your Lordship will remember, in Jodl's diary on the 12th of February 1938, how Keitel, who was something more than a mere soldier, put heavy pressure upon Schuschnigg—that is Document 1780-PS, Jodl's diary—how on the following day Keitel writes to Hitler—Document 1775-PS, Exhibit USA-75—suggesting the shamming of military action and the spreading of false but quite credible news.

Then the actual operation orders for "Operation Otto," Exhibits USA-74, 75, and 77, all of the 11th of March 1938, are OKW orders for which Keitel is responsible.

THE PRESIDENT: What are the numbers of them?

MR. ROBERTS: My Lord, Documents C-102, C-103, and C-182. One of them is actually signed or initialed by Keitel, and two are initialed by Jodl. Those are the operation orders for the advance into Austria, the injunction, if the Tribunal remembers, to treat Czech soldiers as hostile and to treat the Italians as friends.

My Lord, that is the first milestone on the road, the occupation of Austria. My Lord, the second is, is it not...

THE PRESIDENT: Well, perhaps if you are going to pass on to another, we had better adjourn now until 2 o'clock.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MR. ROBERTS: May it please the Tribunal, I had got to the commencement of the alleged aggression against Czechoslovakia; and the Tribunal will remember that the leading exhibit on that matter is the file 388-PS, Exhibit Number USA-26, the "Fall Grün" file. My Lords, that file, in my submission, contains copious evidence against both Keitel and Jodl, showing that they were taking the natural part of the Chief of the Supreme Command of the Armed Forces and the head of the Operations Staff.

May I remind the Tribunal of Item 2. I do not want to read any of these. I might just refer to the notes of a meeting on the 21st of April 1938. The important thing to notice is that Keitel and the Führer met alone, showing the intimate connection between Keitel and the Führer. And it was at that meeting that preliminary plans were discussed, including the possibility of an incident, namely, the murder of the German Ambassador at Prague.

Item 5 in that file, dated the 20th of May 1938, shows the plans for the political and the military campaign against Czechoslovakia, issued by Keitel.

Item 11, dated the 30th of May 1938, is the directive signed by Keitel for the invasion of Czechoslovakia, with the date given as the 1st of October 1938.

There are many items which are initialed by Jodl—Item 14 and Item 17, to mention only two.

Perhaps, for the purpose of the note, I should mention the others: Items 24, 36, and 37.

There is the directive, Items 31 and 32, dated the 27th of September 1938, signed by Keitel, enclosing orders for secret mobilization.

Jodl's diary, Document 1780-PS, contains many references to the forthcoming aggression, particularly the 13th of May and the 8th of September; and there is a very revealing entry on the 11th of September in Jodl's diary, 1780-PS, in which he says . . .

THE PRESIDENT: Will you give us the date?

MR. ROBERTS: I beg Your Lordship's pardon; 11th of September 1938.

> "In the afternoon conference with Secretary of State Hahnke, from the Ministry of Public Enlightenment and Propaganda, on the imminent common tasks. The joint preparations for refutation of our own violations of international law and the exploitation of its violations by the enemy were considered particularly important."

I emphasize those words, "our own violations of international law."

My Lords, as a result of that conference the Document C-2, which was referred to by my learned leader, Sir David, was prepared, which the Tribunal will remember has in parallel columns the possible breach of international law and the excuse which is then going to be given for it. It was referred to so recently that I need not refer to it again.

My Lords, I respectfully submit on that branch of the case that there is an overwhelming case that Keitel and Jodl played an important, indeed a vital part, in the aggression against Czechoslovakia which led up to the Pact of Munich.

My Lords, after the Pact of Munich was signed, as has been pointed out many times, the Nazi conspirators at once set about preparations for annexing the remainder of Czechoslovakia.

My Lords, at this point Jodl disappears from the scene for a time, because he goes to do some regimental soldiering as artillery general in Austria—artillery general of the 44th Division—and so it cannot be said that there is any evidence against him from the Munich Pact until the 23rd of August 1939, when he is recalled on the eve of the Polish invasion to take up his duties once more as chief of the operational staff of OKW.

So far as Keitel is concerned, on the 21st of October 1938, less than a month after the Munich Pact, he countersigned Hitler's order to liquidate the rest of Czechoslovakia and to occupy Memel—Document C-136, Exhibit Number USA-104.

On the 24th of November 1938, Document C-137, Exhibit Number GB-33, Keitel issues a memorandum about the surprise occupation of Danzig.

On the 17th of December 1938, Document C-138, Exhibit Number USA-105, he signs an order to the lower formations: "Prepare for the liquidation of the rest of Czechoslovakia." Those preparations were made.

On the 15th of March 1939 Keitel, who—I again repeat—was more than a mere soldier, was present at the midnight conference between the Führer and Hacha, President of Czechoslovakia, when, under a threat of bombing Prague, Hacha surrendered the rest of his country to the Germans. I refrain from referring to the contents of the minutes, which have been read many times already.

My Lords, so that milestone is past. And again I submit, in all that aggression it is clear that Keitel was playing a vital part as Hitler's right-hand man, commanding all the armed forces under him.

I now pass to the Polish aggression. Keitel was present at the meeting at the chancellery on the 23rd of May 1939, Document L-79,

Exhibit Number USA-27, when it was said—just a few words so familiar: Danzig was not the subject of the dispute; Poland was to be attacked at the first suitable opportunity; Dutch and Belgian air bases must be occupied; declarations of neutrality were to be ignored.

The directive for "Fall Weiss", the invasion of Poland, is Document C-120(a), Exhibit GB-41. The date is the 3rd of April 1939. The Tribunal will remember the plans were to be submitted to OKW by the 1st of May, and the forces were to be ready for invasion by the 1st of September. And that directive is signed by Keitel.

Document C-126, Exhibit GB-45, is a follow-up of that previous directive. It is dated the 22d of June 1939. The need for camouflage is emphasized; and it is stated, "Do not disquiet the population." That is signed by Keitel.

On the 17th of August 1939, Document 795-PS, Exhibit GB-54, Keitel has a conference with Admiral Canaris about the supplying of Polish uniforms to Heydrich; and it will be noticed in the last paragraph of the note that Admiral Canaris is against the war, and Keitel argues in favor of it. And Keitel made the prophecy that Great Britain would not enter the war.

I submit that Keitel's vital part, again, in the preparation for the aggression against Poland is clearly established beyond possibility of dispute.

Jodl, as I have said to the Tribunal, was recalled on the 23rd of August, as seen in his diary entry, Document 1780-PS, where he says that he is recalled to take charge of the Operations Staff. He says:

> "Received order from armed forces high command to proceed to Berlin and take over position of Chief of Armed Forces Executive Office."—And then—"1100 hours to 1330 hours—discussion with Chief of Armed Forces High Command. X-Day has been announced for the 26th of August. Y-Time has been announced for 0430 hours."

And I submit that the Tribunal can infer the importance of Jodl to this conspiracy from the fact that on the eve of the war he is recalled to Berlin to take his place at the head of the operational staff of the Supreme Command.

So Poland was invaded, and before I pass to the next aggression may I just point out that, according to the evidence of General Lahousen, if the Tribunal accepts it on this point, Keitel and Jodl were in the field with Hitler on the 10th of September 1939. That is in the shorthand notes, Pages 617 and 618 (Volume II, Pages 447 and 448). I don't suppose there will be any dispute that the head of the High Command and the Chief of his Operational Staff were in the field.

My Lord, I pass now to Norway and Denmark. So far as both are concerned we see from Document C-64, Exhibit GB-86, that on the 12th of December 1939 Keitel and Jodl were both present at Hitler's conference with Raeder when the invasion of Norway was discussed; and Keitel's direct responsibility to those operations is shown in my submission by Document C-63, Exhibit GB-87, in which Keitel says that the operations against Norway will be "under my direct and personal guidance." And he sets up a planning staff of OKW for the carrying out of those operations.

Jodl's knowledge and complicity, in my submission, are clearly shown also from the entries in his own diary—Document 1809-PS. That is the second part of his diary. And the Tribunal will remember the entry of the 13th of March 1940, in which he records that the Führer was still looking for an excuse for the "Weser" operations. That is the 13th of March, My Lord, 1809-PS:

"The Führer does not give the order yet for Weser. He is still looking for an excuse."

And then, on the 14th of March, "Führer has not yet decided what reason to give for Weser Exercise," which, in my submission, if I may be allowed to make a short comment, shows up in a lurid light the code of honor of the military leaders of Germany—still looking for an excuse.

My Lord, then, as we know, Norway was attacked unawares; and then subsequently lying excuses were given.

My Lord, the invasion of the Low Countries and Luxembourg equally, in my submission, is clearly shown by the documents to have been controlled and directed by Keitel with Jodl's assistance. The Tribunal already have a note of the conference in May of the lands to be occupied—Document L-79. Document C-62, Exhibit GB-106, is a directive, signed "Hitler," on the 9th of October 1939 and another directive, signed "Keitel," on the 15th of October. C-62 comprises two documents, the 9th of October and 15th of October—two directives, one signed "Hitler" and one signed "Keitel"—both giving orders for the occupation of Holland and Belgium.

My Lord, Document C-10, Exhibit GB-108, dated the 8th of November, is Keitel's operation orders for the 7th Parachute Division to make an airborne landing in the middle of Holland.

Document 440-PS, Exhibit GB-107, dated the 20th of November 1939, signed "Keitel," is a further directive for the invasion of Holland and Belgium.

Document C-72, Exhibit GB-109, 7th of November 1939, the 10th of May 1940, 18 letters—11 signed by Keitel, 7 signed by Jodl: "The Führer is postponing A-Day because of the weather."

My Lord, Jodl's diary is also eloquent on that subject. That is Document 1809-PS. Several entries—perhaps I need not refer to

them again—relating to these forthcoming operations, culminating with the one on the 8th of May, which perhaps the Tribunal will remember, when Jodl says, "Alarming information from Holland," and he expresses righteous indignation that the wicked Dutchmen should erect roadblocks and make mobilization preparations.

My Lord, and so those three neutral countries were invaded, and I submit there is copious and overwhelming evidence that these men were in charge of the military organizations which made those invasions possible.

My Lord, I pass now to the planning for the aggression against Greece and Yugoslavia. Document PS-1541, Exhibit GB-117, dated 13th of December 1940, Hitler's order for "Marita," the operation against Greece, signed by Hitler, and a copy to Keitel, namely, OKW.

Document 448-PS, Exhibit GB-118, 11th of January 1941: Keitel initialed a Hitler order for the Greek operation.

Document C-134, Exhibit GB-119, 20th of January 1941: Both Keitel and Jodl are present at the conference with Hitler, Mussolini, and others when the operations against Greece and Yugoslavia are discussed.

Document C-59, Exhibit GB-121, 19th of February 1941: The dates of the operations against Marita are filled in by Keitel.

Document 1746-PS, Exhibit GB-120, 27th of March 1941: A conference with Hitler, Keitel, and Jodl present; the decision to attack and destroy Yugoslavia is announced, and the Führer said: "I am determined to destroy Yugoslavia. I shall use unmerciful harshness to frighten other neutrals"—and these two soldiers were present when that was said.

My Lord, I submit that on that the complicity of these two men for that aggression is amply proved.

My Lord, I pass to Barbarossa—Document 446-PS, Exhibit USA-131, dated 18th of December 1940—Hitler's order for the Barbarossa operation, initialed by Keitel and Jodl. Hitler says, the Tribunal will remember, that he intends to overthrow Russia in a single rapid campaign.

Document 872-PS, Exhibit USA-134, 3rd of February 1941: A discussion with Hitler, Keitel, and Jodl re: Barbarossa and "Sonnenblume"—North African suggestions. Hitler said, "When Barbarossa commences, the world will hold its breath and make no comments."

Then, Document 447-PS, Exhibit USA-135, dated 13th of March 1941: That is an operation order signed by Keitel re: the administration of the areas which were to be occupied; showing again that Keitel was more than a mere soldier; this is civil administration.

Document C-39, Exhibit USA-138, 6th of June 1941: Timetable for Barbarossa, signed by Keitel, and Jodl gets a sixth copy.

Document C-78, Exhibit USA-139, 9th of June 1941, is Hitler's order to Keitel and Jodl to attend the pre-Barbarossa conference on the 14th of June 1941, 8 days before the operation.

My Lord, on those facts and documents on the position of these two defendants, again I respectfully submit their participation in this aggression is overwhelmingly proved.

My Lord, the last aggression is with regard to the provoked persuasion of Japan to commit an aggression against the United States of America. My Lord, there are two key documents; and both Keitel and Jodl are implicated by both of them. My Lord, the first is Document C-75, Exhibit USA-151, dated 5th of March 1941. It is an OKW order signed by Keitel, copy to Jodl. "Japan must be induced to take positive action as soon as possible" is a quotation from it.

Document C-152, Exhibit GB-122, 18th of March 1941: The meeting between Hitler, Raeder, Keitel, and Jodl—Japan to seize Singapore. That is the relevant extract on that.

My Lord, on those acts of aggression and those preparations for aggression, I submit that the case against these two men is overwhelming. It is clear, in my submission, that there could be no defense open to them except that they were obeying the orders of a superior. That defense is not open to them under this Charter. No doubt all these wicked schemes germinated in the wicked brain of Hitler, but he could not carry them out alone. He wanted men nearly as wicked and nearly as unscrupulous as himself.

My Lord, I now pass very rapidly to the question of War Crimes and Crimes against Humanity. My Lord, it has already been proved that Keitel signed the "Nacht und Nebel" decrees, committing persons to incarceration in Germany where all trace of them was lost. That is Document L-90, Exhibit USA-503.

There is one fresh document that I desire to put in. Colonel Telford Taylor put in Document C-50, Keitel's order as to ruthless action in the Barbarossa campaign. There is one complementary document to that, Document C-51, which is Exhibit GB-162, Keitel's order dated the 27th of July 1941:

> "In accordance with the regulations concerning classified material the following offices will destroy all copies of the Führer's decree of 13 May 1941"—that is C-50, the Barbarossa decree—"in the communication mentioned above:
>
> "a) All offices up to the rank of 'general commands' inclusive;" —My Lord, that means that corps commanders and downwards should destroy copies—"b) group commands of the armored troops"—that again means offices of the armed corps below the rank of corps commanders should destroy the copies—"c) army commands and offices of equal rank, if there

is an inevitable danger that they might fall into the hands of unauthorized persons."

That is to say that even higher generals, if the war approaches closely to them, should destroy these documents rather than risking any chance of their being captured.

"The validity of the decree is not affected by the destruction of the copies. In accordance with Paragraph III, it remains the personal responsibility of the commanding officers to see to it that the offices and legal advisers are instructed in time and that only these sentences are confirmed which correspond to the political intentions of the Supreme Command."

That was with regard to German soldiers not being tried by court-martial for offenses against Soviet troops: "This order will be destroyed together with the copies of the Führer's decree."

My Lord, I submit that the anxiety on the part of the OKW, presided over by Keitel, to destroy that—I suggest an illegal order; a barbarous order—is significant.

My Lord, I desire now to put in another document which is almost the last document in the bundle, UK-20. Your Lordship will find it flagged at the end of the bundle. It is from the Führer's headquarters, 26th of May 1943. It says:

"Re: Treatment of supporters of De Gaulle who fight for the Russians.

"French airmen serving in the Soviet forces have been shot down on the Eastern Front for the first time. The Führer has ordered that employment of French troops in the Soviet forces is to be counteracted by the strongest means.

"It is therefore ordered:

"1) Supporters of De Gaulle who are taken prisoner on the Eastern Front will be handed over to the French Government for proceedings in accordance with OKW order. . . . "

And then I read Paragraph 3:

"Detailed investigations are to be made in appropriate cases against relatives of Frenchmen who fight for the Russians, if these relatives are resident in the occupied area of France. If the investigation reveals that relatives have given assistance to facilitate escape from France, then severe measures are to be taken."

My Lord, I offer that as Exhibit GB-163.

My Lord, there is a document which I feel I should put in, which is the next document in the bundle. It is Document UK-57, Exhibit GB-164. This is the last document, I think, in the bundle. My Lord, it is from the Ausland Abwehr—I believe it is from the intelligence foreign department. It is to the OKW and it is signed the 4th of

January 1944. My Lord, the heading is "Re: Counteraction to Kharkov 'trial.'" Paragraph 2 is all that I read:

> "The documents concerning 'commandos' have been asked for and thoroughly investigated by the Reich Security Main Office. In five cases members of the British Armed Forces were arrested as participants. Thereupon they were shot in compliance with the order from the Führer. It would be possible to attribute to them breaches of international law and to have them posthumously sentenced to death by a Tribunal. Up to the present no breaches of international law could be proved against commando participants."

My Lord, I read no more, and I submit that that is clearly an admission of murder, not warfare at all.

My Lord, Keitel's comments are to be found in the top left-hand corner of that document:

> "We want documents on the basis of which we can institute similar proceedings. They are reprisals which have no connection with battle actions. Legal justifications are superfluous."

THE PRESIDENT: Is that not at the top signed by Keitel?

MR. ROBERTS: It is typewritten in the office copy which is the original.

THE PRESIDENT: There is no actual signature?

MR. ROBERTS: No.

THE TRIBUNAL (Mr. Biddle): How does it connect with Keitel then?

MR. ROBERTS: "Vermerk Chef OKW"—that is "note of the Chief of OKW."

Now, that is the first minute. My Lord, the second minute is on the same subject, and it is dated the 6th of January 1944; and there is a large red Keitel "K" initialed on the top of this letter, showing that he got it. My Lord, the first paragraph deals with two officers who were then at Eichstätt Camp in Bavaria. My Lord, there is no importance in that paragraph, because those two officers are still alive.

The second paragraph:

"Attempted attacks on the battleship *Tirpitz*.

> "At the end of October '42 a British commando that had come to Norway in a cutter had orders to carry out an attack on the battleship *Tirpitz* in Drontheim Fjord by means of a two-man torpedo. The action failed since both torpedoes which were attached to the cutter were lost in the stormy sea. From the crew consisting of six Englishmen and four Norwegians,

a party of three Englishmen and two Norwegians were challenged on the Swedish border. However, only the British seaman Robert Paul Evans, born 14 January '22 at London, could be arrested . . . the others escaped into Sweden.

"Evans had a pistol pouch in his possession such as are used to carry weapons under the armpit and also a knuckle-duster. Violence, representing a breach of international law, could not be proved. He has made extensive statements about the operation. In accordance with the Führer's order he was shot on 19 January '43."

Again I submit, that is murder. Violence representing a breach of international law could not be proved.

My Lord, then the third paragraph:

"Blowing up of the Glomfjord power station.

"On 16 September '42, 10 Englishmen and two Norwegians landed on the Norwegian coast dressed in the uniform of the British Mountain Rifle Regiment, heavily armed and equipped with explosives of every description. After negotiating difficult mountain country they blew up important installations in the power station Glomfjord on 21 September '42. The German sentry was shot dead on that occasion. Norwegian workmen were threatened that they would be chloroformed should they resist. For this purpose the Englishmen were equipped with morphia syringes. Several of the participants have been arrested while the others escaped into Sweden.

"Those arrested are: Captain Graeme Black, born 9 May '11 in Dresden; Captain Joseph Houghton, born 13 June '11 at Bromborough; Sergeant-major Miller Smith, born 2 November '15 at Middlesborough; Corporal William Chudley, born 10 May '22 at Exeter; Rifleman Reginald Makeham, born 28 January '14 at Ipswich; Rifleman Cyril Abram, born 20 August '22 in London; Rifleman Eric Curtis, born 24 October '21 in London. They were shot on 30 October '42."

Again there is no suggestion that there was any breach of international law. They were British seamen and they were in uniform.

Then Paragraph 4:

"The sabotage attack against German ships off Bordeaux.

"On 12 December '42, a number of German ships off Bordeaux were seriously damaged by explosives below water-level. The adhesive mines had been fixed by five English sabotage gangs working from canoes. Of the 10 participants the following were arrested after a few days. . . . "

Then there followed six names, six British names—one an Irishman; a lieutenant, a petty officer, a sergeant, and three marines.

"A seventh soldier named Moffett was found drowned; the remainder apparently escaped into Spain.

"The participants proceeded in pairs from a submarine in canoes upstream into the mouth of the River Gironde. They were wearing olive grey special uniforms. After effecting the explosions they sank the boats, and attempted to escape into Spain in civilian clothes, with the assistance of the French civilian population. No special criminal actions during the flight have been discovered. All the arrested, in accordance with orders, were shot on 23 March 1943."

Keitel initialed that document. That document, read by my learned leader Sir David Maxwell-Fyfe not so long ago, is Document Number 735-PS, quoting Keitel as saying, "I am against legal procedure. It does not work out."

THE PRESIDENT: Would you read the Page 5 which follows that?

MR. ROBERTS: If it will please the Tribunal, that is what I shall do. Page 5:

"The Führer's headquarters, 9 January 1944. The Chief of OKW has handed the Deputy Chief"—that ought to be WFSt, that is Jodl—"the enclosed letter with the following account:

"It is of no importance to establish documentary proof of breaches of international law. What is important, however, is the collection of material suitable for a propaganda presentation of a display trial. A display trial as such is therefore not meant actually to take place but merely to be a propaganda presentation of cases of breaches of international law by enemy soldiers, who will be mentioned by name and who have already either been punished with death or are awaiting the death penalty. The Chief of the OKW asks the Chief of the Foreign Department to bring with him pertinent documents for his next visit to the Führer's headquarters."

As the Tribunal heard from my learned friend, Sir David Maxwell-Fyfe, when he read Document 735-PS earlier today, Keitel said, "I am against legal procedure. It does not work out."

One can agree with Keitel after having read that record of what, in my submission, is cold-blooded murder of brave men, brave soldiers and sailors who were fighting for their country; and although this Trial has a record of the death of brave men, of the murder of brave men, there are few cases which are more poignant than those shown in the documents to which I have just referred.

I have finished my presentation of the case against Keitel and against Jodl. So far as Jodl's part in the War Crimes and Crimes against Humanity is concerned, he figures much less than Keitel. Of course, he had no power of giving orders or directives, but we

see that he at any rate signed and circulated an infamous order of the Führer saying that commandos ought to be shot and are not to be treated as prisoners of war at all.

In my submission the evidence against these two men is overwhelming and their conviction is demanded by the civilized world.

Your Lordships, Mr. Walter W. Brudno of the American Delegation will present the case against Alfred Rosenberg.

MR. WALTER W. BRUDNO (Assistant Trial Counsel for the United States): May it please the Tribunal, in connection with the case against the Defendant Rosenberg, I wish to offer the document book designated as United States Exhibit EE. This book contains the English translation of all the documents which I will offer into evidence, as well as the English translation of those documents previously offered to which I will refer. The documents are arranged by series in the order of C, L, R, PS, and EC, and they are arranged numerically within each series.

Your Honors will note that on the first four pages of the document book there appears a descriptive list of documents. This list is a tabulation of all the documents directly implicating Rosenberg, including those previously offered, and those which I will offer into evidence. Those previously offered are keyed to the transcript page of the Record, and to their exhibit numbers. The list is included in the document books. The list is included in the document books made available to the Defense. This list will gather together in one place all references to the Defendant Rosenberg which are in the Record up to this point. In order to avoid repetition, I will not refer to a great many of the documents previously introduced.

The Indictment at Page 29 (Volume I, Page 70) charges the Defendant Rosenberg under all four Counts of the Indictment. In the presentation which follows, I will show that as charged in Count One, Section IV, Subparagraph D, Rosenberg played a particularly prominent role in developing and promoting the doctrinal techniques of the conspiracy, in developing and promoting beliefs and practices incompatible with Christian teaching, in subverting the influence of the churches over the German people, in pursuing the program of relentless persecution of the Jews, and in reshaping the educational system in order to make the German people amenable to the will of the conspirators and to prepare the people psychologically for waging an aggressive war.

I will also show that Rosenberg played an important role in preparing Germany for the waging of aggressive war through the direction of foreign trade, as charged in Count One, Subparagraph E, of the Indictment, and that his activities in the field of foreign policy contributed materially toward the preparation for the

aggression charged in Subparagraph F in the Indictment and the Crimes against Peace, as charged in Count Two.

Finally I will show that Rosenberg participated in the planning and direction of the War Crimes and Crimes against Humanity, as specified in Paragraph G of Count One of the Indictment. Particularly, he participated in the planning and direction of the spoliation of art treasures in the western countries and in the numerous crimes committed in that part of the eastern countries formerly occupied by the U.S.S.R.

The political career of the Defendant Rosenberg embraced the entire history of National Socialism and permeated nearly every phase of the conspiracy with which we are concerned. In order to obtain a full conception of his influence upon and participation in the conspiracy, it is necessary to review briefly his political history, and to consider each of his political activities in their relation to the thread of the conspiracy which stretches from the inception of the Party in 1919 to the defeat of Germany in 1945.

It is both interesting and revealing to note that for Rosenberg the 30th of November 1918 marked the "beginning of political activities with a lecture about the 'Jewish Problem.'" That statement is found at Line 2 of the translation of Document 2886-PS, which is an excerpt from a book entitled, *The Work of Alfred Rosenberg,* a biography, and I offer this book as Exhibit Number USA-591.

From the Document 3557-PS, which has excerpts from an official pamphlet entitled *Dates in the History of the NSDAP,* and which I offer as Exhibit Number USA-592, we learn that Rosenberg was a member of the German Labor Party, afterwards the National Socialist German Workers Party, in January 1919 and that Hitler joined forces with Rosenberg and his colleagues in October of the same year. Thus, Rosenberg was a member of the National Socialist movement even before Hitler himself.

Now I wish to offer Document 3530-PS, which is an extract from *Das Deutsche Führer Lexikon,* the year of 1934-35, and I offer it as Exhibit Number USA-593. In this document we obtain additional biographical data on Rosenberg as follows:

> "From 1921 until the present he was editor of the *Völkische Beobachter;* editor of the *N. S. Monatshefte;* in 1930, he became member of the Reichstag and representative of the foreign policies for the Party... since April 1933 he was leader of the foreign political office of the NSDAP, then designated Reichsleiter; in January 1934, deputized by the Führer for the supervision of the ideological education of the NSDAP, the German labor front, and all related organizations."

The Document 2886-PS, which I have just referred to, offered as Exhibit Number USA-591, adds that in July 1941 Rosenberg was appointed Reich Minister for the Occupied Eastern Territories.

With this general background information in mind the first phase of proof will deal with Rosenberg as official National Socialist ideologist. The proof which I will present will show the nature and scope of the ideological tenets he expounded, and the influence he exerted upon the unification of German thought, a unification which was an essential part of the conspirators' program for the seizure of power and preparation for aggressive war.

Rosenberg wrote extensively on, and actively participated in, virtually every aspect of the National Socialist program. His first publication was the *Nature, Basic Principles, and Aims of the NSDAP.* This publication appeared in 1922. Rosenberg spoke of this book in a speech which we have seen and heard delivered in the motion picture previously introduced as Exhibit Number USA-167. On Page 2, Part 1, of the transcription of the speech, which is our Document Number 3054-PS, Rosenberg stated as follows:

> "During this time"—that is, during the early phase of the Party—"I wrote a short thesis which nevertheless is significant in the history of the NSDAP."—This is Rosenberg speaking.—"It was always being asked what points of program the NSDAP had and how they were to be interpreted. Therefore I wrote the *Nature, Basic Principles, and Aims of the NSDAP*, and this writing made the first permanent connection for Munich and local organizations being created and friends within the Reich."

We thus see that the original draftsman of, and spokesman on, the Party program was the Defendant Rosenberg. Without attempting to survey the entire ideological program advanced by the Defendant Rosenberg in his various writings and speeches, which are very numerous, I wish to offer into evidence certain of his statements as an indication of the nature and broad scope of the ideological program which he championed. It will be seen that there was not a single basic tenet of the Nazi philosophy which was not given authoritative expression by Rosenberg. Rosenberg wrote the book entitled *Myth of the Twentieth Century,* published in 1930. This book has already been offered as Exhibit USA-352. At Page 479, which Your Honor will find on the second page of Document 3553-PS, Rosenberg wrote on the race question as follows:

> "The essence of the contemporary world revolution lies in the awakening of the racial type; not in Europe alone but on the whole planet. This awakening is the organic counter movement against the last chaotic remnants of the liberal economic imperialism, whose objects of exploitation out of

desperation have fallen into the snare of Bolshevik Marxism, in order to complete what democracy had begun, the extirpation of the racial and national consciousness."

Rosenberg expounded the Lebensraum idea, which idea was the chief motivation, the dynamic impulse behind Germany's waging of aggressive war. In his journal, the *National Socialist Monatshefte,* for May 1932, which I wish to offer as Exhibit Number USA-594, our Document Number 2777-PS, he wrote at Page 199:

"The understanding that the German nation, if it is not to perish in the truest sense of the word, needs ground and soil for itself and its future generations; and the second sober perception that this soil can no more be conquered in Africa, but in Europe and first of all in the East—these organically determine the German foreign policy for centuries."

Rosenberg expressed his theory as to the place of religion in the National Socialist State in his *Myth of the Twentieth Century,* additional excerpts from which are cited in Document 2891-PS. At Page 215 of the "Myth" he wrote as follows:

"We now realize that the central supreme values of the Roman and the Protestant Churches being a negative Christianity do not respond to our soul, that they hinder the organic powers of the people designated as a Nordic race, that they must give way to them, that they have to be remodelled to conform to a Germanic Christianity. Therein lies the meaning of the present religious search."

In the place of traditional Christianity, Rosenberg sought to implant the neo-pagan myth of the blood.

THE PRESIDENT: Do you want to break off here for a recess?

MR. BRUDNO: Yes, Your Honor.

[A recess was taken.]

THE PRESIDENT: I have an announcement to make to the defendants' counsel. In view of the applications which were made to the Tribunal this morning, I immediately ordered on behalf of the Tribunal that an investigation should be made of the complaints made by defendants' counsel about the delay in the delivery of the transcript of the shorthand notes and such delay will be remedied at once. The investigation shows that transcripts of the sessions up to and including the 20th of December can be completed by this afternoon. The transcripts for the sessions held since the resumption of the Trial will be distributed, up to and including the 8th of January, by tomorrow evening. Hereafter, the German

transcripts will be regularly distributed to the Defense Counsel within a period of 48 hours after the session.

MR. BRUDNO: If Your Honors please, when the Court rose I had just read a quotation of Rosenberg, in which he expressed his views on Christianity.

In the place of traditional Christianity, Rosenberg sought to implant the neo-pagan myth of the blood. At Page 114 in the *Myth of the Twentieth Century* he stated as follows:

> "Today, a new faith is awakening; the myth of the blood, the belief that the divine being of mankind generally is to be defended with the blood. The faith embodied by the fullest realization that the Nordic blood constitutes that mystery which has supplanted and overwhelmed the old sacraments."

Rosenberg's attitudes on religion were accepted as the only philosophy compatible with National Socialism. In 1940 the Defendant Bormann wrote to Rosenberg in Document 098-PS, which has been previously introduced as Exhibit Number USA-350; and I quote:

> "The churches cannot be conquered by a compromise between National Socialism and Christian teachings but only through a new ideology, whose coming you, yourself, have announced in your writings."

Rosenberg actively participated in the program for elimination of church influence. The Defendant Bormann frequently wrote Rosenberg in this regard, furnishing him information as to proposed action to be instituted against the churches; and, when necessary, requesting that action be taken by Rosenberg's department. I refer to documents introduced in connection with the case against the Leadership Corps, such documents as 070-PS, Exhibit Number USA-349, which deals with abolition of religious services in the schools; Document 072-PS, Exhibit Number USA-357, dealing with confiscation of religious property; Document 064-PS, Exhibit Number USA-359, which deals with the inadequacy of anti-religious material being circulated to the soldiers; Document 089-PS, Exhibit Number USA-360, dealing with curtailment of the publication of Protestant periodicals; and Document 122-PS, which is Exhibit Number USA-362, dealing with the closing of theological faculties.

Rosenberg was particularly avid in his pursuit of what he called the "Jewish question." On the 28th of March 1941, on the occasion of the opening of the Institute for the Exploration of the Jewish question, he set the keynote for its activities and indicated the direction which the exploration was to take. I would like to quote from Document 2889-PS, which I offer as Exhibit Number USA-595.

This is an excerpt from the *Völkischer Beobachter,* 29th of March 1941. This is a statement made by Rosenberg on the occasion of the opening of the institute.

> "For Germany the Jewish question is only then solved when the last Jew has left the Greater German space.
>
> "Since Germany with its blood and its folkdom has now broken for always this Jewish dictatorship for all Europe and has seen to it that Europe as a whole will become free from the Jewish parasitism once more, we may, I believe, also say for all Europeans: For Europe the Jewish question is only then solved when the last Jew has left the European continent."

It has already been seen that Rosenberg did not overlook any opportunity to put these anti-Semitic beliefs into practice. Your Honors will recall that in Document 001-PS, which was introduced as Exhibit Number USA-282 in connection with the case on persecution of the Jews, Rosenberg recommended that instead of executing 100 Frenchmen as retaliation for attempts on lives of members of the Wehrmacht, there be executed 100 Jewish bankers, lawyers, *et cetera.* The recommendation was made with the avowed purpose of awakening the anti-Jewish sentiment.

Document 752-PS, which was introduced this morning by Sir David Maxwell-Fyfe as Exhibit GB-159, discloses that Rosenberg had called an anti-Semitic congress in June 1944, although this congress was cancelled due to military events.

In the realm of foreign policy, in addition to demanding Lebensraum, Rosenberg called for elimination of the Versailles Treaty and cast aside any thought of revision of that treaty. In his book *The Nature, Basic Principles, and Aims of the NSDAP,* written by Rosenberg in 1922, he expressed his opinions regarding the Treaty of Versailles. Excerpts from this book are translated in Document 2433-PS, and I offer the book as Exhibit Number USA-596. He stated as follows:

> "The National Socialists reject the popular phrase of the 'Revision of the Peace of Versailles' as such a revision might perhaps bring a few numerical reductions in the so-called 'obligations'; but the entire German people would still be, just as before, the slave of other nations."

Then he goes on to expound the second point of the Party:

> "We demand equality for the German people with other nations, the cancellation of the peace treaties of Versailles and St. Germain."

Rosenberg conceived of the spread of National Socialism throughout the world and, as will be subsequently shown, took an active

part in promoting the infection of other nations with his creed. In the *Nature, Basic Principles, and Aims of the NSDAP* he states:

> "But National Socialism still believes that its principles and ideology—though in individual methods of fight according to various racial conditions—will be directives far beyond the borders of Germany for the inevitable fights for power in other countries of Europe and America. There too a clear line of thought must be drawn, and the racial-nationalistic fight against the everywhere-similar loan-capitalistic and Marxist-internationalism must be taken up. National Socialism believes that once the great world battle is concluded, after the defeat of the present epoch, there will be a time when the swastika will be woven into the different banners of the Germanic peoples as the Aryan symbol of rejuvenation."

This statement was made in 1922. It is thus seen that the Defendant Rosenberg gave authoritative expression to the basic tenets upon which National Socialism was founded and through the exploitation of which the conspiracy was crystallized in action.

Rosenberg's value to the conspiratorial program found official recognition with his appointment in 1934 as the Führer's delegate for the entire spiritual and philosophical education and supervision of the NSDAP. His activities in this capacity were vast and varied.

I now offer in evidence the *National Socialist Year Book* for the year 1938 as Exhibit Number USA-597. At Page 180 of this book, which is our Document Number 3531-PS, the functions of Rosenberg's office as the Führer's delegate are described as follows:

> "The sphere of activity of the Führer's delegate for the entire spiritual and ideological instruction and education of the movement, its organizations, including the 'Strength through Joy,' extends to the uniform execution of all the educational work of the Party and of the affiliated organizations. The office set up by Reichsleiter Rosenberg has the task of preparing the ideological education material, of carrying out the teaching program, and is responsible for the education of those teachers suited to this educational and instructional work."

As the Führer's delegate, Rosenberg thus supervised all ideological education and training within the Party.

It was Rosenberg's personal belief that upon the performance of his new functions as ideological delegate depended the future of National Socialism. I offer Document 3532-PS as Exhibit Number USA-598. This is an excerpt from an article by Rosenberg appearing in the March 1934 issue of *The Educational Letter*. At Page 9 of this publication Rosenberg states:

"The focus of all our educational work from now on is the service for this ideology; and it depends on the result of these efforts, whether National Socialism will die with our fighting generation or whether, as we believe, it really represents the beginning of a new era."

In his capacity as the Führer's delegate for the spiritual and ideological training, Rosenberg assisted in the preparation of the curriculum for the Adolf Hitler schools. These schools, it will be recalled, selected the most suitable candidates from the Hitler Jugend and trained them for leadership within the Party. They were the elite schools of National Socialism. The next document, entitled "Documents of German Politics" is already in evidence as Exhibit Number USA-365. Translations of excerpts from this document are found in 3529-PS, Page 389, and read as follows:

"As stated by Dr. Ley, Reich Organization Leader, on 23 November 1937 at Ordensburg Sonthofen, these Adolf Hitler Schools, as the first step of the principle of selecting a special elite, form an important branch in the educational system of the National Socialist training of future leaders....

"'The curriculum has been laid down by Reichsleiter Rosenberg, together with the Reich Organization Leader and the Reich Youth Leader.'"

Rosenberg exercised further influence in the education of Party members in the establishment of community schools for all organizations of the Party. Document 3528-PS is a translation of Page 297 of the 1934 edition of *Das Dritte Reich*, which I offer as Exhibit Number USA-599. It reads as follows:

"We support the request of the Führer's delegate for the supervision of the entire spiritual and ideological education and instruction of the NSDAP, Party member Alfred Rosenberg, to organize community schools of all organizations of the NSDAP twice a year, in order to show by this common effort the ideological and political unity of the NSDAP and the steadfastness of the National Socialist will."

This program was endorsed by the Defendant Schirach as well as by Himmler, Ley, and others.

THE PRESIDENT: Aren't you dealing with this rather in a cumulative way? Isn't it possible to summarize this evidence against Rosenberg more than you are doing?

MR. BRUDNO: I will try to, Your Honor. However, although the Indictment charges, and there is already substantial proof to show that the defendant conspirators used ideological training as an implement in achieving their rise to power and in consolidating their control, there seems to be little evidence as to Rosenberg's position;

and I am introducing this evidence in order to show that he played a dominant role in this connection. However, I will try to summarize these documents if I can.

THE PRESIDENT: Well, I've taken down about 20 documents that you have alluded to, all of which deal with Rosenberg's ideological theories.

MR. BRUDNO: Yes, Your Honor. I was merely trying to show the scope of his activities.

THE PRESIDENT: Yes.

MR. BRUDNO: Your Honors will recall that it was in his capacity as Führer's delegate that Rosenberg established the Institute for the Exploration of the Jewish Question in Frankfurt. This institute, commonly known as the "Hohe Schule," has been referred to in connection with the exposition of art plunders. Into its library there flowed books, documents, and manuscripts which were looted from virtually every country of occupied Europe. Further evidence on this score will be introduced by the prosecutor of the Republic of France.

Your Honors will also recall, and the Record shows at Pages 1671 to 1687 (Volume IV, Pages 81 to 92), that it was as ideological delegate that Rosenberg conducted the fabulous art looting activities of the Einsatzstab Rosenberg, activities which extended to virtually every country occupied by the Germans. I will not attempt to summarize the extent of the plunder and merely refer the Tribunal to Document 1015(b)-PS, which has already been introduced as Exhibit Number USA-385, and Document L-188, which has been introduced as Exhibit Number USA-386. Document 1015(b)-PS details the looting of 21,000 objects of art; Document L-188, the looting of the contents of over 71,000 Jewish homes in the West. This subject, too, will be further developed by the French Prosecutor.

The importance of Rosenberg's activities as official ideologist of the Nazi Party was not overlooked. In Document 3559-PS, which I wish to introduce as Exhibit Number USA-600—this document, incidentally, is the Hart biography of Rosenberg, entitled *Alfred Rosenberg, The Man and His Work*—it is stated that Rosenberg won the German National Prize in 1937. The creation of this prize, Your Honors will recall, was the Nazis' petulant reply to the award of the Nobel Prize to Karl von Ossietzki, an inmate of a German concentration camp. The citation which accompanied the award to Rosenberg reads as follows:

> "Alfred Rosenberg has helped with his publications to lay the scientific and intuitive foundation and to strengthen the ideology of National Socialism in the most excellent way....

The National Socialist movement, and beyond that, the entire German people will be deeply gratified that the Führer has distinguished Alfred Rosenberg as one of his oldest and most faithful fighting comrades by awarding him the German National Prize."

The contribution which Rosenberg's book, *The Myth of the Twentieth Century,* the foundation of all his ideological propaganda, made in the development of National Socialism, was appraised in a publication *Bücher Kunde* in 1942. This publication is our Document Number 3554-PS, dated November 1942. I offer it as Exhibit Number USA-601. The first page sets forth an appraisal of the *Myth of the Twentieth Century.*

THE PRESIDENT: Mr. Brudno, you referred us to the *Myth of the Twentieth Century* on several occasions.

MR. BRUDNO: Yes, Your Honor.

THE PRESIDENT: We really don't want to hear any more about it.

MR. BRUDNO: I wish to show that this book is regarded as being one of the pillars of the movement and I wish to show also, Sir, that it had a circulation of over a million copies.

THE PRESIDENT: Well, I think it is absolutely clear from the evidence which has already been given that Rosenberg was enunciating doctrines of the ideology of the Nazi Party; and I don't think that it is necessary to go any further into details about it.

MR. BRUDNO: Very well. If the Tribunal is satisfied that Rosenberg's ideas formed the foundation for the National Socialist ideological movement, I will pass on.

THE PRESIDENT: Well, you have already brought out the fact that he was appointed the Führer's deputy for that purpose; wasn't he?

MR. BRUDNO: Yes, Your Honor. I shall pass on from that point. I would merely like to make reference, however, to Document 789-PS, which has already been introduced as Exhibit Number USA-23. This document records a meeting between Hitler and his supreme commanders, on which occasion Hitler said, "The building up of our Armed Forces was possible only in connection with the ideological education of the German people by the Party."

We submit that the contribution which Rosenberg made through formulation and dissemination of National Socialist ideology was fundamental to the conspiracy. As the apostle of neo-paganism, the exponent of the drive for Lebensraum, and the glorifier of the myth of Nordic superiority and as one of the oldest and most energetic Nazi proponents of anti-Semitism, he contributed materially to the unification of the German people behind the swastika. He provided

the impetus and the inspiration for the National Socialist movement. His doctrines were responsible for the sublimation of morality and the crystallization of the Nordic dream in the minds of the German people, thereby making them useful tools in the hands of the conspirators and willing collaborators in the prosecution of their criminal plan.

I now pass to the second phase of Rosenberg's criminal activities—his active contribution toward the preparation for aggressive war through the international activities of the APA, the Foreign Policy Office of the Party.

As previously indicated in my quotation from *Das Führer Lexikon*, which is Exhibit Number USA-593, Rosenberg became a Reichsleiter, the highest level of rank in the Leadership Corps, and was made chief of the foreign policy office of the Party in April 1933. The organization manual of the Party, Document 2319-PS, which I offer as Exhibit Number USA-602, describes the functions of the APA as including the influencing of public opinion abroad so as to convince foreign nations that Germany desired peace. The far-flung activities of the APA are indicated at Page 14 of the translation of this document and are stated as follows:

"1. The APA is divided into three main offices:

"A. Office for Foreign Areas with its main sections: a) England and Far East; b) Near East; c) southeast; d) north; e) old Orient; f) controls, personnel questions, *et cetera.*

"B. Office of the German Academic Exchange Service. . . .

"C. Office of Foreign Commerce.

"2. Moreover, there is in the APA a main office for the press service and an educational office."

The press activities of the APA were designed to influence world opinion in such a manner as to conceal the conspirators' true purposes and thus facilitate the preparation for waging aggressive war. The activities were carried on, on an ambitious scale. I offer into evidence Document 003-PS, which is entitled *A Short Report on the Activities of the APA of the NSDAP.* It is Exhibit Number USA-603. The last paragraph on Page 5 of the translation describes the press activities as follows:

"The Press Division of the APA is staffed by persons conversant with all languages to be considered. They examine approximately 300 newspapers daily and deliver to the Führer, the Führer's deputy, and all other interested offices the condensations of the important trends of the entire world press. . . . The Press Division furthermore maintains an exact record on the prestige of the most important papers and journalists of the world. Many embarrassments during conferences in

Germany could have been avoided had one consulted these archives.... Further, the Press Division was able to arrange a host of interviews with me as well as conducting a great number of unobjectionable foreign journalists to the various official representatives of Germany."

And then:

"Hearst then personally asked me to write often about the position of German foreign policy in his papers. This year five detailed articles have appeared under my name in Hearst papers all over the world. Since these articles, as Hearst personally let me know, presented well-founded arguments, he asked me to write further articles for his paper."

Thus, Rosenberg used his foreign policy office to influence world opinion on behalf of National Socialism.

It is interesting to note in passing that Rosenberg states, at Page 4 of this document, that the Romanian anti-Semitic leader, Cuza, followed his suggestions as—in Rosenberg's words—"he had recognized in me an unyielding anti-Semite." We will hear more of this affair shortly.

The nature and extent of the activities of the APA are amply disclosed in a single document. This is the principal document to which I will refer in this phase of the case against Rosenberg. This document bears our Number 007-PS and is entitled, "Report on the Activities of the Foreign Affairs Bureau of the Party from 1933 to 1943." It is signed by Rosenberg. Portions of Annex 1, attached to the report, have already been read into evidence as Exhibit GB-84. The body of the report and Annex 2 have not been referred to heretofore. As will be seen the document contains a recital of widespread activities in foreign countries. These activities range from the promotion of economic penetration to fomentation of anti-Semitism; from cultural and political infiltration to the instigation of treason. Activities were carried on throughout the world and extended to such widely separated points as the Middle East and Brazil.

Many of the APA's achievements were brought about through the subtle exploitation of personal relationships. Reading from the middle of the first paragraph on Page 2 of the translation, which refers to activities in Hungary, we learn that:

"The first foreign state visit after the seizure of power took place through the mediation of the foreign policy office. Julius Gömbös, who in former years had himself pursued anti-Semitic and racial tendencies and with whom the office maintained a personal connection, had reached the Hungarian Premier's chair...."

The APA endeavored to strengthen the war economy by shifting the source of food imports to the Balkans, as stated in Paragraph 3 on Page 2 of the translation:

> "Motivated by reasons of war economy, the office advocated the transfer of raw material purchases from overseas to the areas accessible by overland traffic routes."

Then he goes on to point out that they had successfully shifted the source of food imports, particularly fruit and vegetable imports, to the Balkans as a result of the activities of the offices.

Activities in Belgium, Holland, and Luxembourg were confined, according to the report, to "observation of existing conditions"—a phrase which may have broad connotations—and "to the establishment of relations, especially of a commercial nature."

In Iran the APA achieved a high degree of economic penetration, in addition to promoting cultural relations. I quote from the middle of the third paragraph on Page 3:

> "The office's initiative in developing, with the help of commercial circles, entirely new methods for the economic penetration of Iran found expression, in an extraordinarily favorable way, in reciprocal trade relations. Naturally, in Germany, too, this initiative encountered a completely negative attitude and resistance on the part of the competent State authorities, an attitude that at first had to be overcome. In the course of a few years, the volume of trade with Iran was multiplied five-fold and in 1939 Iran's trade turnover with Germany had attained first place."

In the last sentence on Page 3 . . .

THE PRESIDENT: Well, now, Mr. Brudno, will you kindly explain to the Tribunal how the paragraph that you just read bears upon the guilt of Rosenberg in this Trial?

MR. BRUDNO: If Your Honor pleases, we submit that the conspirators used, as one of the tools of conspiracy, the economic penetration of those countries which they deemed strategically necessary to have within the Axis orbit. The activities of Rosenberg in the field of foreign trade contributed materially, we submit, to the advancement of the conspiracy, as charged in the Indictment.

THE PRESIDENT: Are you suggesting that it is a crime to try and stimulate trade in foreign countries?

MR. BRUDNO: If Your Honor pleases, the expression of ideological opinions or the advancement of foreign trade do not, in themselves, constitute a crime, we agree.

THE PRESIDENT: There is nothing here about ideological considerations. It is simply a question of trade.

MR. BRUDNO: Further on, Your Honor, he mentions the cultural activities.

THE PRESIDENT: I was confining myself, in order to try to get on, to the particular paragraph that you had just cited.

MR. BRUDNO: I see, Your Honor; we are merely trying to show, Sir, that the Germans used the foreign trade weapon as a material part of the conspiratorial program.

THE PRESIDENT: As I have said before, it is not possible for me or for any member of this Tribunal to conduct the case of the Prosecution for them. We can only tell them when we think they are being irrelevant and cumulative and ask them to try to cut down their presentation. It is for you to cut it down.

MR. BRUDNO: Rosenberg goes on to state, if Your Honor please, at Page 3 of the translation, that "Afghanistan's neutral position today is largely due to the office's activity."

In connection with Arabia, he says:

> "The Arab question, too, became part of the work of the office. In spite of England's tutelage of Iraq, the office established a series of connections to a number of leading personalities of the Arab world, smoothing the way for strong bonds to Germany. In this connection, the growing influence of the Reich in Iran and Afghanistan did not fail to have repercussions in Arabia."

Rosenberg concluded his report with the statement that, with the outbreak of war, he was entitled to consider his task as terminated, and then he says, "The exploitation of the many personal connections in many lands can be resumed under a different guise."

I now turn to Annex 2 of the report, which is found at Page 9 of the translation. This annex deals with activities in Romania. Here the APA's intrigue was more insidious, its interference in the internal affairs of a foreign nation more pronounced. After describing the failure of what Rosenberg terms a "basically sound anti-Semitic tendency," due to dynastic squabbles and Party fights, Rosenberg describes the APA's influence in the unification of conflicting elements. I quote, beginning with the ninth line of the translation:

> "What was lacking was the guiding leadership of a political personality. After manifold groping trials the office believed such a personality to have been found in the former Minister and poet, Octavian Goga. It was not difficult to convince this poet, pervaded by instinctive inspiration, that a greater Romania, though it had to be created in opposition to Vienna, could be maintained only together with Berlin. Nor was it difficult to create in him the desire to link the fate of Romania with the future of the National Socialist German Reich in

good time. By bringing continuing influence to bear, the office succeeded in inducing Octavian Goga as well as Professor Cuza to amalgamate the parties under their leadership on an anti-Semitic basis. Thus they could carry on with united strength the struggle for Romania's renascence internally and her Anschluss with Germany externally. Through the office's initiative both parties, which had heretofore been known by distinct names, were merged as the National Christian Party, under Goga's leadership and with Cuza as Honorary President."

Rosenberg's man, Goga, was supported by two splinter parties, which had not joined the anti-Semitic trend, and Rosenberg states: "Through intermediaries, the office maintained constant contact with both tendencies."

Goga, the man supported by Rosenberg, was appointed Prime Minister by the King in December 1937. The pernicious influence of Rosenberg's ideology had achieved a major triumph, for he states:

"Thus a second government on racial and anti-Semitic foundations had appeared in Europe, in a country in which such an event had been considered completely impossible."

I will not deal at any length with the details of the political turmoil that plagued Romania during the ensuing period.

THE PRESIDENT: Mr. Brudno, I think the Tribunal are satisfied that Rosenberg—I mean satisfied, subject to what Rosenberg himself or his counsel may say—that Rosenberg tried to spread his ideology abroad, and we don't require any further detailed proof of that, and we are also satisfied that we have heard enough of the activities of the APA.

MR. BRUDNO: Certainly, Your Honor. We feel that if the Tribunal is satisfied, we can pass on.

THE PRESIDENT: Subject, as I said, to anything that Rosenberg may prove.

MR. BRUDNO: Surely. I would merely like to conclude with the statement that the activities of the APA were, as indicated in this Document 007-PS, primarily responsible for Romania's joining the Axis. It was a vital link in Germany's chain of military strategy.

I would further like to call to Your Honor's attention the evidence which has already been submitted on the activities of the APA in Norway, activities which led to the treason of Quisling and Hagelin, for which they have been condemned.

I come now to the final phase of the case against the Defendant Rosenberg. We have seen how he aided the Nazi rise to power and directed the psychological preparation of the German people for waging of aggressive war. I will now offer proof of his responsibility for the planning and execution of War Crimes and Crimes against

Humanity committed in the vast areas of the occupied East, which he administered for over 3 years. These areas included the Baltic States, White Ruthenia, the Ukraine, and the eastern portion of Poland.

I will not endeavor here to chronicle again the tale of mass murder, spoliation, and brutality. We feel that that has already been sufficiently evidenced, and further evidence on this point will be presented by the Prosecution for the U.S.S.R. and for the Republic of France.

We anticipate, however, that Rosenberg will contend that some of these crimes were committed against his wishes, and, indeed, there is some evidence that he protested on occasion—not out of humanitarian reasons but on grounds of political expediency.

We also anticipate that Rosenberg will attempt to place the blame for these crimes on other agencies and on other defendants. The evidence will prove, however, that he himself formulated the harsh policies, in the execution of which the crimes were committed; that the crimes were committed for the most part by persons and agencies within his jurisdiction and control; that any other agencies which participated in the commission of these crimes were invited by Rosenberg to co-operate in the administration of the East, although the brutal methods customarily employed by them were common knowledge; and, finally, his Ministry lent full co-operation to their activities, despite the criminal methods that were employed.

Rosenberg was actively participating in the affairs of the East as early as 20 April 1941, 2 months prior to the German attack upon the Soviet Union. On that date he was designated by Hitler as commissioner for the central control of questions connected with the East European region.

The Hitler order by virtue of which he received this appointment has been read into the record in its entirety as Exhibit Number USA-143, our Document Number 865-PS.

The initial preparations undertaken by Rosenberg for fulfillment of his task indicated the extent to which he co-operated in promoting the military plans for aggression. They also show that he understood his task at the inception as requiring the assistance of a multitude of Reich agencies and that he invited their co-operation.

Shortly after his appointment by Hitler, Rosenberg conducted a series of conferences with representatives of various Reich agencies, conferences which are summarized in Document 1039-PS, previously offered as Exhibit Number USA-146. This document indicated the co-operation of the following agencies. It indicated that the co-operation of these agencies was both contemplated and solicited by Rosenberg. The agencies are as follows: OKW, OKH, OKM, Ministry of Economics, Commissioner for the Four Year Plan, the Ministry of

the Interior, Reich Youth Leadership, the German Labor Front, Ministry of Labor, the SS, the SA, and several others.

These arrangements, it should be noted, were made by Rosenberg in his capacity as commissioner on Eastern questions, before the attack on the Soviet Union, before he was appointed as Reich Minister for the occupied East, in fact, before there was any occupied East for Germany to administer.

I would like to refer briefly to some of Rosenberg's basic attitudes regarding his new task and the directives which he knew he would be expected to follow.

Your Honor will recall that on 29 April 1941, in Document 1024-PS, previously introduced as Exhibit Number USA-278, Rosenberg stated that:

> "A general treatment is required for the Jewish problem for which a temporary solution will have to be determined (forced labor for the Jews, creation of ghettos, *et cetera).*"

On May 8, 1941 he prepared instructions for all Reich commissioners in the Occupied Eastern Territories. These instructions are found in Document 1030-PS, previously introduced as Exhibit Number USA-144. The last paragraph, which has not been called to Your Honors' attention, reads as follows:

> "From the point of view of cultural policy, the German Reich is in a position to promote and direct national culture and science in many fields. It will be necessary that in some territories an uprooting and resettlement of various racial stocks will have to be effected."

In Document 1029-PS, which has been introduced as Exhibit Number USA-145, Rosenberg directs that the Ostland be transformed into a part of the Greater German Reich by germanizing racially possible elements, colonizing Germanic races, and banishing undesirable elements.

In a speech which Rosenberg made on 20 June 1941, Your Honors will recall, he stated the job of feeding Germans was the top of Germany's claim on the East; that there was no obligation to feed the Russian peoples; that this was a harsh necessity bare of any feelings; that a very extensive evacuation will be necessary; and that the future will hold many hard years in store for the Russians. This speech, Your Honors, is in the record as Document 1058-PS, Exhibit Number USA-147.

On July 4, 1941, still prior to Rosenberg's appointment as Reich Minister for the occupied East, a representative of Rosenberg's office attended a conference on the subject of utilization of labor, and especially of the labor of Soviet prisoners of war. Document 1199-PS is a memorandum of this conference, and I offer it into evidence as

Exhibit Number USA-604. It states that the participants were, among others, representatives of the Commissioner for the Four Year Plan, of the Reich Labor Ministry, of the Reich Food Ministry, and of the Rosenberg office. The first sentence states, and I quote:

"After an introduction by Lieutenant Colonel Dr. Krull, Lieutenant Colonel Breyer of the PW Department explained that actually there was a prohibition in effect by the Führer against bringing Russian PW's into the Reich for employment, but that one might count on this prohibition being relaxed a little."

The last paragraph records that, and I quote:

"The chairman summarized the results of the discussion as indicating that all the bureaus concerned unqualifiedly advocated and supported the demand for utilization of PW's because of manpower needs in the Reich."

On 16 July 1941, the day before Rosenberg's appointment as Minister of the occupied East, he attended a conference at the Führer's headquarters, the minutes of which have been introduced as Document L-221, Exhibit Number USA-317. At that time Hitler stated, "The Crimea has to be evacuated by all foreigners and to be settled by Germans alone."

He further stated that Germany's objectives in the East were three-fold: first, to dominate it; second, to administer it; third, to exploit it.

Thus, the character of the administration which was contemplated for the occupied East was well established before Rosenberg took office as Minister. He knew of these plans and was in accord with them. Persecution of the Jews, forced labor of prisoners of war, Germanization and exploitation, were all basic points of policy which Rosenberg knew of at the time he assumed office.

On July 17, 1941, Rosenberg was appointed Reich Minister for the Occupied Eastern Territories. The decree by which he was appointed is in evidence as Document 1997-PS, Exhibit Number USA-319.

I would like now to examine the organizational structure and the chain of responsibility which existed within the Ministry for the occupied East.

The organizational structure of the East was such as we will show that Rosenberg was not merely a straw man. He was the supreme authority with full control.

Document 1056-PS is a mimeographed treatise entitled, "The Organization of the Administration of the Occupied Eastern Territories." It is undated and unsigned, but we can obtain further information regarding it by reference to EC-347, which is Göring's Green Folder, already in evidence as Exhibit Number USA-320.

It is noted that Part II, Subsection A, of Document EC-347 is entitled, and I quote: "Excerpts from the Directives of the Reich Minister for the Occupied Eastern Territories and for the Civil Administration," and then in parenthesis, "Brown Folder, Part I, Pages 25 to 30."

The two paragraphs which follow are identical to two paragraphs found at the top of Page 9 of the translation of Document 1056-PS. Thus Document 1056-PS is identified as being a mimeograph of Part I of the Brown Folder which was mentioned in the Green Folder, and was issued by the Reich Minister for the Occupied Eastern Territories.

I now offer Document 1056-PS as Exhibit Number USA-605. I offer this document for the purpose of proving, from the directives issued by the Rosenberg Ministry itself, the extent of Rosenberg's authority; that he was the supreme civilian authority in the Eastern territories. The document will show that there was a continuous chain of command from Rosenberg down to the regional administrative officials, a chain of command which extended even to the local prison warden.

The document also will show the relationship which existed between the Rosenberg Ministry and other German agencies, a relationship which varied from full control by Rosenberg to full co-operation with them, made mandatory by his directives and by Hitler's orders.

Finally, the document will show that the various subdivisions of the Ministry were required to submit periodic reports of the situation within their jurisdiction, so that the numerous reports of unspeakable brutality which Rosenberg received, and which are already in the record, were submitted to him pursuant to his orders.

The first paragraph of this significant document states as follows:

> "The newly occupied Eastern territories are subordinated to the Reich Minister for the Occupied Eastern Territories. By direction of the Führer he establishes a civil administration there, upon withdrawal of the military administration. He heads and supervises the entire administration of this area and represents the sovereignty of the Reich in the Occupied Eastern Territories."

At the top of Page 2 of the translation is stated, and I quote:

> "To the Reich Ministry is assigned a deputy of the Reich Leader SS and Chief of the German Police in the Reich Ministry of the Interior."

Roman numeral III on Page 2 of the translation defines the responsibility of the Reich commissioners as, and I quote:

"In the Reich commissariats, Reich commissioners are responsible for the entire civil administration under the supreme authority of the Reich Ministry for the Occupied Eastern Territories. According to the instructions of the Reich Minister for the Occupied Eastern Territories, the Reich Commissioner, as a functionary of the Reich, heads and supervises, within his precincts, the entire civil administration. Within the scope of these instructions he acts on his own responsibility."

And then the chain of command is outlined: Subordinate offices, general commissariats, main commissariats, district commissariats, *et cetera.*

In the second last paragraph on Page 3 of the translation it is stated again:

"The Higher SS and Police Leader is directly subordinated to the Reich Commissioner. However, the Chief of Staff has the general right to secure information from him also....

"Great stress is to be placed on close co-operation between him, the Chief of Staff, and the other main department heads of the office of the Reich Commissioner, particularly with the one for policies."

To digress from this document a moment, I ask that the Court take judicial notice of the decree signed by Rosenberg, dated July 17, 1941, and found in the *Verordnungsblatt* of the Reich Minister for the occupied East, 1942, Number 2, Pages 7 and 8.

This decree provides for the creation of summary courts for decisions on crimes committed by non-Germans in the East. The courts are to be presided over by a police officer or an SS leader, who have authority to order the death sentence or confiscation of property, and those decisions are not subject to appeal. The general commissar is given the right to reject a decision. Thus, the determination of the SS, of these summary courts, is made subordinate to the authority of a representative of the Rosenberg Ministry.

At Page 4 of the translation of Document 1056-PS, the position of the Commissioner General is defined. It is stated here that: "The Commissioner General forms the administrative office of intermediate appeal."

Three paragraphs down it is stated, and I quote:

"The SS and Police Leader assigned to the Commissioner General is directly subordinated to him. However, the Chief of Staff has the general right of requiring information from him."

The document goes on to describe the function of the various subdivisions of the Ministry, concluding with regional commissioners who preside over the local administrative districts. They, too, have police units assigned to them and directly subordinated to them.

THE PRESIDENT: Well, Mr. Brudno, surely that could have been stated in a sentence without referring us to all these passages in this document. I mean, Rosenberg was the Minister for the Eastern Territories. He had under him Reich commissioners and SS units, who had the full administration—civil administration—of the Eastern Territories. If you had stated that, surely that would have been sufficient.

MR. BRUDNO: Very well, Your Honor.

I will proceed from that point, then, merely to point out that the economic exploitation of the territory was undertaken in the fullest co-operation with the Commissioner of the Four Year Plan, as shown by Paragraph 2 of Page 7 of the translation. It is stated there that the economic inspectorates of the Commissioner of the Four Year Plan will be substantially absorbed in the agencies of the civil administration after the establishment of the civil administration.

I also wish to call Your Honors' attention to the first paragraph on Page 6, which reads as follows:

> The various commissioners, it says, "are, aside from the military agencies, the only Reich authorities in the Occupied Eastern Territories. Other Reich authorities may not be established alongside them. They handle all questions of administration of the area which is subordinate to their sovereignty and all affairs which concern the organization and activity of the administration, including those of the police, in the supervision of the autonomous agencies and organizations and of the population."

I now turn briefly to the second section of the document which is entitled, "Working Directives for the Civil Administration." The first two paragraphs on Page 9 have been read into the record as part of Document EC-347, Exhibit Number USA-320. I call particular attention to the statement that the "Hague Rules of Land Warfare, which deal with the administration of a country occupied by a foreign armed power, are not valid."

I continue quoting at the last paragraph on Page 9:

> "The handling of cases of sabotage is a concern of the Higher SS and Police Leader, of the SS and Police Leader, or of the Police leaders of the lower echelon. Insofar as collective measures against the population appear appropriate, the decision about them rests with the competent commissar.

"To inflict penalties in cash or kind, as well as to order the seizure of hostages and the shooting of inhabitants of the territory in which the acts of sabotage have taken place, rests only with the Commissioner General, unless the Reich Commissioner himself intervenes."

I conclude with this document by quoting the first sentence at the top of Page 13:

"The district commissioners are responsible for the supervision of all prisons, unless the Reich commissioners intervene."

I will not take the time of the Tribunal, nor burden the Record, with a detailed account of the manner in which Rosenberg's plenary authority and power were wielded. There is evidence in the Record, and there will be additional evidence presented by the Soviet prosecutor, as to the magnitude of the War Crimes and the Crimes against Humanity perpetrated against the peoples of the occupied East.

However, merely to illustrate the manner in which Rosenberg participated in the criminal activities conducted within his jurisdiction, I would like to refer briefly to a few examples.

I call your attention to the document numbered R-135, which was previously introduced as Exhibit Number USA-289. In this document the prison warden of Minsk reports that 516 German and Russian Jews had been killed, and called attention to the fact that valuable gold had been lost due to the failure to knock out the fillings of the victims' teeth before they were done away with.

These activities took place in the prison at Minsk, a prison which, Your Honors will recall from Document 1056-PS, was directly under the supervision of the Ministry for the occupied East.

For my next illustration I wish to offer Document 018-PS. This document has already been introduced as Exhibit Number USA-186. I would like to read to the Tribunal the first paragraph of Document 018-PS, which has not yet been read into the Record. The document reveals that Rosenberg wrote Sauckel on 21 November 1942, in the following terms:

"I thank you very much for your report on the execution of the great task given to you; and I am glad to hear that in carrying out your mission you have always found the necessary support, even on the part of the civilian authorities in the Occupied Eastern Territories. For myself and the officials under my command, this collaboration was and is self-evident, especially since both you and I have, with regard

to the solution of the labor problem in the East, represented the same points of view from the beginning."

As late as 11 July 1944 the Rosenberg Ministry was actively concerned with the continuation of the forced labor program, in spite of the retreat from the East.

THE TRIBUNAL (Mr. Biddle): After making this generality, Rosenberg goes on to object, at the last here, to the methods used. You haven't mentioned that.

MR. BRUDNO: Quite right, Your Honor. Those objections are already in the record, Sir, and I was merely referring to this document to show that Rosenberg favored recruitment from the East, that his civilian administrators co-operated with the recruitment in spite of the methods used, the methods which were known to Rosenberg as he reports in the letter himself.

DR. ALFRED THOMA (Counsel for Defendant Rosenberg): High Tribunal, in this connection I must protest that the Prosecutor did not finish reading this Paragraph 1 he has just quoted. For then comes the sentence in which he states that an agreement existed between Sauckel and Rosenberg regarding ...

THE PRESIDENT: I don't think you can have heard that the United States Member of the Tribunal has just made this very point, which you are now making to Counsel for the United States, and has pointed out to him that he ought to have read there, or drawn attention at any rate, to the other paragraphs in this document which showed that Rosenberg was objecting to the methods used.

DR. THOMA: High Tribunal, I would like to point out that the prosecutor quoted just the first two sentences of a specific paragraph. The same paragraph ends, however, where it is stated that "there was an agreement between Sauckel and me according to which workers were to be treated well in Germany, and for this purpose welfare organizations were to be created". The presentation of the prosecutor creates the impression that the Defendants Sauckel and Rosenberg had agreed only on the use of forced labor without restraint and on the deportation of the workers from the East.

THE PRESIDENT: As Counsel for the United States pointed out, the other passages in the document have already been read. And, naturally, the whole document will be treated as being in evidence.

The Tribunal fully realizes the point you are making, that it is not fair to read one passage of a document when there are other passages in the document which show that the passage read is not a full or proper statement of the document.

MR. BRUDNO: If Your Honor pleases, I was not attempting to delude the Tribunal; it was merely in the interest of time that I did not read the balance. The rest is in the Record.

THE PRESIDENT: I realize that.

We will adjourn now.

[The Tribunal adjourned until 10 January 1946 at 1000 hours.]

THIRTY-FIRST DAY

Thursday, 10 January 1946

Morning Session

MR. BRUDNO: May it please the Tribunal, when the Tribunal rose yesterday I had finished the submission of proof as to Rosenberg's responsibility and authority in the Occupied Eastern Territories and was about to conclude my presentation with four brief examples as to the manner in which his authority was exercised. I was in the middle of the third example, which, Your Honors will recall, dealt with Rosenberg's participation in the forced labor program. I wish to conclude that illustration with reference to Document 199-PS, which we offer as Exhibit Number USA-606. This document is a letter from Alfred Meyer, Rosenberg's deputy, and is addressed to Sauckel, dated July 11, 1944. This time, Your Honors will note, it is Rosenberg's Ministry that is urging action. I wish to quote Item Number 1 of this letter, which reads as follows:

> "The War Effort Task Force Command formerly stationed in Minsk must continue, under all circumstances, the calling up of young White Ruthenian and Russian men for military employment in the Reich. In addition the Command has the mission of bringing young boys of 10-14 years of age into the Reich."

My third illustration deals with Rosenberg's exercise of his legislative powers, and I ask the Court to take judicial notice of the decree signed by Lohse, who was Reich Commissar for Ostland. This decree is published in the *Verordnungsblatt* of the Reich Commissar for Ostland, 1942, Number 38, Pages 158 and 159. It provides for the seizure of the entire property of the Jewish population in the Ostland, including the claims of Jews against third parties. The seizure is made retroactive to the day of occupation of the territory by German troops. This sweeping decree was issued and published by Rosenberg's immediate subordinate, and it must be assumed that Rosenberg knew of it and acquiesced in it.

I now come to my final illustration. This illustration is derived from Document 327-PS, which is already in evidence as Exhibit Number USA-338.

It is a copy of a secret letter from Rosenberg to Bormann dated 17 October 1944. It furnishes a graphic account of Rosenberg's

activities in the economic exploitation of the occupied East. I wish to quote from the first paragraph on Page 1, which has not been read into the Record. I quote:

> "In order not to delay the liquidation of companies under my supervision, I beg to point out that the companies concerned are not private firms but business enterprises of the Reich, so that directives with regard to them, just as with regard to Government offices, are reserved to the highest authorities of the Reich. I supervise the following companies. . . ."

There follows a list of nine companies: A trading company, an agricultural development company, a supply company, a pharmaceutical company, and five banking concerns. On Page 3 of the translation at Item 1 (a) the mission of the trading company is stated to be, and I quote:

> "Seizure of all agricultural products as well as commercial marketing and transportation thereof. (Delivery to Armed Forces and the Reich)."

I now call your attention to Item 5 of the same page. It describes the activities of the companies as follows:

> "During this period, the Z.O."—that is, the Central Trading Corporation East—"together with its subsidiaries has seized:
>
> "Grain 9,200,000 tons, meat and meat products 622,000 tons, linseed 950,000 tons, butter 208,000 tons, sugar 400,000 tons, fodder 2,500,000 tons, potatoes 3,200,000 tons, seeds 141,000 tons, other agricultural products 1,200,000 tons, and 1,075,000,000 eggs.
>
> "The following was required for transportation: 1,418,000 freight cars and 472,000 tons shipping space."

In conclusion we submit that the evidence has shown that the Defendant Rosenberg played a leading role in the Nazi Party's rise to power by moulding German thought so as to promote the conspirators' ambitions; that he played a leading role in spreading propaganda and intrigue, and in instigating treason in foreign countries, so as to pave the way for the waging of wars of aggression; and that he bears full responsibility for the War Crimes and Crimes against Humanity which were perpetrated in the Occupied Eastern Territories and which will be further developed by the prosecutor for the U.S.S.R.

This completes the presentation of the case against the Defendant Rosenberg. The next presentation will be that of the case against the Defendant Frank, which will be presented by Lieutenant Colonel Baldwin.

LIEUTENANT COLONEL WILLIAM H. BALDWIN (Assistant Trial Counsel for the United States): May it please the Tribunal,

we wish now to deal with the individual responsibility of the Defendant Frank. In accordance with the expressed desire of the Tribunal, this presentation has been strictly limited; and, of course, I should welcome any direction from the Tribunal as to length or method as I proceed.

First, I must acknowledge my indebtedness to Miss Harriet Zetterberg, of our legal staff, and to Dr. Pietrowski, of the Polish Delegation, for their invaluable work—Dr. Pietrowski and the Polish Delegation, naturally, having a special interest in the Defendant Frank.

Aspects of the criminal complicity of the Defendant Hans Frank under Count One of the Indictment have been placed before this Tribunal on several occasions. There remain, however, certain matters for discussion—either novel in presentation or in development—concerning this defendant as an individual, before the United States' portion of the Prosecution's case against him is completed. Our Soviet colleagues will carry further the heavy complaint against the Defendant Frank in their treatment of War Crimes and Crimes against Humanity in the East. We wish here merely to touch upon that evidence which, we believe, irrefutably discloses Frank to have been a tremendously important cog in the machine which conceived, promoted, and executed the Nazi Common Plan or Conspiracy. Documents relating to this point have been assembled in a document book bearing the letters "FF." I am informed that these books, as well as explanatory briefs, have been distributed for the use of the members of the Tribunal.

Reference will be made in the course of this argument to the so-called Frank diary, portions of which have already been brought to the attention of the Tribunal. It seems appropriate that brief mention should here be made of the content and source of this diary. It is a set of some 38 volumes, most of which are on the table at the front of the courtroom, detailing the activities of the Defendant Frank from 1939 to the end of the war in his capacity as Governor General of Occupied Poland. It is a record, in short, of each day's business, hour by hour, appointment by appointment, conference by conference, speech by speech, and—in truth we believe—crime by crime. Each volume, excepting the last few, is now handsomely bound; and in those volumes, which deal with the conferences of Frank and his underlings in the Government General, the name of each person attending the meeting is inscribed in his own handwriting on a page preceding the minutes of the conference itself. It is incredibly shocking to the normal conscience that such a neat history of murder, starvation, and extermination should have been maintained by the individual responsible for such deeds, but by now the Tribunal is well aware that the Nazi leaders

were sentimentally fond of elaborately documenting their exploits, as witness the Rosenberg volumes displaying the looted art treasures and the album reporting on the extermination of Jews in the Warsaw ghetto. The complete set of the Frank diary was found in Bavaria, at Neuhaus, near Schliersee, on 18 May 1945, by the 7th American Army. It was taken to the 7th Army document center at Heidelberg and on or about 20 September 1945 the collection was sent to the Office of U.S. Chief of Counsel here at Nuremberg. It is here in court in its entirety; and now its tones, we submit, are those of accusation rather than boastful narration.

That the Defendant Frank held a position of leadership in the Nazi Party and in the German Government is undeniable. Even, presumably, it would be unfair to the Defendant Frank to underestimate his importance in the Nazi hierarchy and the Third Reich. Like the other defendants in this case, he was a man of far-reaching influence and position; and his office-holding record is already before this Court. It is an affidavit signed by the Defendant Frank and identified as Exhibit Number USA-7. This document contains a listing of 11 important positions held by Frank in the Party and in the Government and supports the assertion of influence and position which I have just made, especially since this Tribunal has been fully apprised of the criminal activities of the Nazi organizations and formations.

The machinations of Frank divide themselves logically into two periods. In the one, from 1920 to 1939, he was by his own admission the leading Nazi jurist, although parenthetically the word "jurist" loses its reputable content when modified by the word "Nazi". In the other period, extending from 10 October 1939 until the end of the war, he was Governor General of occupied Poland. While he is most notorious for his persecutions and carrying out of the conspiracy in the latter capacity, it is the opinion of the United States Prosecution that the Defendant Frank's contributions to the Nazi rise to power as the leading Nazi jurist should not pass without mention. It is with this aspect that I shall first deal—the Defendant Frank's furtherance of the realization of the conspirators' program in the field of law, his knowledge of the criminal purpose of the program, and his active participation therein.

The Defendant Frank, himself, described his role in the Nazi struggle for power in the following words, which were remarks he ordered his secretary to place in the Frank diary on 28 August 1942. The remarks appear in the diary and are translated in our Document 2233(x)-PS, which, if the Court please, is at Page 54 in the document book before it.

The numbers of the pages of the document book will be found in the upper right-hand corner in colored pencil, either red or

blue. The original of this document I now offer in evidence as Exhibit Number USA-607. In the German text these extracts appear in Part 3 of the 1942 diary volume on Pages 968, 969, and 983. Frank says:

> "I have since 1920 continually dedicated my work to the NSDAP. As a National Socialist I was a participant in the events of November 1923, for which I received the Order of the Blood. After the resurrection of the movement in the year 1925, my really greater activity in the movement began, which made me, first gradually, later almost exclusively, the legal adviser of the Führer and of the Reich Party Directorate of the NSDAP. I was thus the representative of the legal interests of the growing Third Reich in a legal-ideological as well as in a practical way."

He goes on to say:

> "The culmination of this work I see in the Leipzig army trial, in which I succeeded in having the Führer admitted to the famous oath of legality, a circumstance which gave the Movement legal grounds to expand on a large scale. The Führer, indeed, recognized this achievement and in 1926 made me leader of the National Socialist Lawyers' League; in 1929, Reichsleiter of the Reich Legal Office of the NSDAP; in March 1933, Bavarian Minister of Justice; in the same year, Reich Commissioner for Justice; in 1934, President of the Academy of German Law, founded by me; and in December 1934, Reich Minister without Portfolio. And in 1939, I was finally appointed Governor General for the occupied Polish territories.
>
> "So I was, am, and will remain the representative jurist of the struggle period of National Socialism....
>
> "I profess myself now and always, as a National Socialist and a faithful follower of the Führer, Adolf Hitler, whom I have now served since 1919...."

It is indeed significant and worth mentioning to the Court...

THE PRESIDENT: Is this an extract from his diary?

LT. COL. BALDWIN: Yes, Sir; it is.

THE PRESIDENT: And are the words "Present: Dr. Hans Frank and others" written by him in his diary?

LT. COL. BALDWIN: Yes, Sir; they are. Before each of these excerpts, if Your Honor pleases, if it was in conference it was indicated which members of the Government General were present or who made the address.

THE PRESIDENT: Yes.

LT. COL. BALDWIN: It is indeed significant and worth mentioning to the Court that the Defendant Frank assumes responsibility for the so-called oath of legality at the Leipzig army trial. At that trial, in 1930, three army officers were accused of—curiously enough—conspiracy to high treason. The charge was that the defendants in that trial, in their capacity as members of the German Army, tried to form National Socialist cells in the German Army and to influence the German Army to such an extent that, in the case of a Putsch by the National Socialists, the army would not fire at the National Socialists, but would stand at ease instead. All three of the officers were found guilty and sentenced to 18 months' confinement. At that trial, however, Hitler was a witness; and during the course of the trial, testified under oath that the term "revolution," used by him, meant only spiritual revolution in Germany and that the expression "heads would roll in the sand" meant only that they would do so as a result of legal procedure through state tribunals, if the National Socialists came to power. This, if the Court please, was the so-called oath of legality, the lie that the Defendant Frank provided his Führer as a facade for the conspiracy and which he, at least in 1942, considered the culmination of his efforts.

As the "representative jurist of the struggle period of National Socialism" and in various juridical capacities listed in his affidavit of positions held, Defendant Frank was, between 1933 and 1939, the most prominent policy-maker in the field of German legal theory. For example, Defendant Frank founded the Academy of German Law in 1934 and he was president of this once potent body until 1942. The statute defining the functions of this Academy conferred upon it wide power to initiate and co-ordinate juridical policies.

This statute appears in the translation at Page 5 in the document book as our Document 1391-PS and appears in the 1934 *Reichsgesetzblatt* at Page 605. We ask the Court to take judicial notice of it. I now quote briefly from the decree:

> "It is the task of the Academy for German Law to further the reorganization of legal procedure in Germany. Closely connected with the agencies competent for legislation, it shall further the realization of the National Socialist program in the realm of the law. This task shall be carried out by approved scientific methods.
>
> "The Academy's task shall cover primarily:
>
> "1. The formulation, initiation, judging, and preparing of drafts of law; 2. collaboration in rejuvenating and unifying the training in jurisprudence and political science; 3. the editing and supporting of scientific publications; 4. financial

assistance for work and research in specific fields of law and political economy."

THE TRIBUNAL (Mr. Biddle): Do you have to read all this? We will take judicial notice of it.

LT. COL. BALDWIN: Among the early tasks which Defendant Frank set for himself, as policy maker in the field of law, were the unification of the German State, the promotion of racial legislation, and the elimination of political organizations other than the Nazi Party. In a radio address given on 20 March 1934 he announced success in these matters. Our partial English translation of this speech appears as Document 2536-PS, at Page 64 in the document book. The official text of this speech appears in *Dokumente der Deutschen Politik,* Volume II (first edition), Pages 294-298. In the German text the extracts which I shall quote appear at Pages 296 and 298, and I will ask the Court to take judicial notice of these passages:

"The first task was that of uniting all Germans into one State. It was an outstanding historical and legislative accomplishment on the part of our Führer that by boldly grasping historical development he eliminated the sovereignty of the various German states. At last we have now, after 1,000 years, again a unified German State in every respect. It is no longer possible for the world, based on the spirit of resistance inherent in small states, which are set up on an egoistical scale and solely with a view to their individual interest, to make calculations to the detriment of the German people. That is a thing of the past for all times to come."

I pass on now to the second excerpt:

"The second fundamental law of the Hitler Reich is racial legislation. The National Socialists were the first in the entire history of human law to elevate the concept of race to the status of a legal term. The German Nation, unified racially and nationally, will in the future be legally protected against any further disintegration of the German race stock."

I pass now to the mention of the sixth law:

"The sixth fundamental law was the legal elimination of those political organizations which within the State, during the period of the regeneration of the people and the reconstruction of the Reich, were once able to place their selfish aims ahead of the common good of the nation. This elimination has taken place entirely legally. It is not the coming to the fore of despotic tendencies, but it was the necessary legal consequence of a clear political result of the 14 years' struggle of the NSDAP.

"In accordance with these unified legal aims"—Frank continues—"in all spheres, particular efforts have for months now been made regarding the work of the great reform of the entire field of German law.

"As the leader of the German jurists, I am convinced that, together with all strata of the German people, we shall be able to construct the legal state of Adolf Hitler in every respect and to such an extent that no one in the world will at any time be able to dare to attack this constitutional state as regards its laws."

In his speech on the occasion of the day of the Reich University Professors of the National Socialist Lawyers' League on 3 October 1936, the Defendant Frank explained to the gathering of professors the elimination of Jews from the legal field, in accordance with the Nazi plan. Our partial translation of this speech appears as Document 2536-PS, at Page 62 of the document book. The official text appears likewise in *Dokumente der Deutschen Politik*, in Volume IV, Pages 225 to 230. I ask the Tribunal to take judicial notice of this. It deals, to summarize...

THE PRESIDENT: I do not think you need it because we have already had documents of the same sort.

LT. COL. BALDWIN: As the leading Nazi jurist, the Defendant Frank accepted, condoned, and promoted the system of concentration camps and of arrest without warrant. He apparently had no hesitancy in subverting his professional ethics, if any he had, while subverting the legal framework of the German State to Nazi ends. He explains the outrageous departure from civilization that were concentration camps in an article on "Legislation and Judiciary in the Third Reich," published in 1936 in the official journal of the Academy of German Law, of which, of course, he was the editor. The partial translation of this article appears as our Document 2533-PS, at Page 61 of the document book. The official German text of the extract appears in *Zeitschrift der Akademie für Deutsches Recht*, 1936, at Page 141, and I will ask the Tribunal to take judicial notice of this. Since the extract is short, I will ask permission to read it. Frank says:

"Before the world we are blamed again and again because of the concentration camps. We are asked: Why do you arrest without a warrant of arrest? I say: Put yourselves into the position of our nation. Don't forget that the very great and still untouched world of Bolshevism cannot forget that here on our German soil we have made final victory for them impossible in Europe."

It can be seen, therefore, that just as other defendants mobilized the military, economic, and diplomatic resources for aggressive war,

the Defendant Frank, in the field of legal policy, geared the German juridical machine for a war of aggression, which war of aggression, as he explained in 1942 to the NSDAP political leaders of Galicia at a mass meeting in Lvov—and I now quote from the Frank diary, our Document 2233(s)-PS, at Page 50 in the document book, the original of which I offer in evidence as Exhibit Number USA-607—had for its purpose, and I quote: "... to expand the living space for our people in a natural manner."

The distortions and warpings of German law, which Defendant Frank engineered for the Party, gave him, if not the world, vast satisfaction. He reported this to the powerful Academy for German Law in November 1939, 1 month after becoming Governor General of occupied Poland. This speech is partially translated in our Document 3445-PS, at Page 73 in the document book. The official text of the speech appears in *Deutsches Recht,* 1939, Volume 2, the week of 23-30 December 1939, beginning at Page 2121; and we ask the Court to take judicial notice of this, but would ask permission to read the excerpt, as it is very short. Frank stated:

> "Today we are proud of having formulated our legal principles from the very beginning in such a way that they need not be changed in the case of war. For the maxim—that which serves the Nation is right, and that which harms it is wrong, which stood at the beginning of our legal work and which established this idea of the community of the people as the only standard of the law—this maxim shines out also in the social order of these times."

If this sentiment has a familiar ring to it, it is because it is a restatement of a Party commandment tailored and furnished by the Party lawyer to fit the Party's concept of law. I allude, of course, to the Party commandment, commented upon at Page 1608 (Volume IV, Page 38) of the official English transcript of these proceedings in the treatment of the Leadership Corps, which commandment stated and I quote, "Right is that which serves the Movement and thus Germany."

It follows, I think, that the Prosecution conceives the Defendant Frank to be jointly responsible for all those cruel and discriminatory enabling acts and decrees through which the Nazis crushed minorities in Germany and consolidated their control over the German State and prepared it for its early entry upon aggression. It matters not, in our view, that the signature of this lawyer does not appear at the foot of every decree. Enough has been shown, in our submission, to indicate culpability in this regard. There is sufficient, we believe, now in this Record—and I refer to decrees cited by Major Walsh in his treatment of the persecution of the Jews and by Colonel Storey in his treatment of the Reich Cabinet—to

demonstrate that type of enactment and the consequences thereof, for which we hold the Defendant Frank liable. In following this theory, may it please the Tribunal, we are only arriving at conclusions already arrived at for us by the Defendant Frank himself.

I now pass to that second and well-known phase of the Defendant Frank's official life, wherein he for 5 years, as chief Party and Government agent, was bent upon the elimination of a whole people. He was appointed Governor General of the occupied Polish territory by a decree signed by his then Führer on 12 October 1939. The decree defined the scope of Frank's executive power and is contained in our Document 2537-PS, at Page 66 in the document book. I shall ask the Tribunal to take judicial notice of this, since it appears in *Reichsgesetzblatt,* 1939, Part I, Page 2077.

It merely states that Dr. Frank is appointed as Governor General of the occupied Polish territory; that Dr. Seyss-Inquart is appointed as Deputy Governor General, and that "the Governor General shall be directly responsible to me"—meaning Hitler, he having signed the decree.

While some of the outside world was prone in earlier days to wonder at the apparent efficiency of Nazi administration, we now know that it was often riddled with the petty jealousies of small men in positions of some authority and with jurisdictional fractiousness. No such difficulty existed with the Defendant Frank, however, for though he was not without the threat of divided authority, he insisted upon, and was granted, the favor of supreme command within the territorial confines of the Government General. Only two references from his diary, one in 1940 and one in 1942, are necessary to show the all-inclusiveness of his direction and authority.

At a meeting of department heads of the Government General on 8 March 1940 in the Bergakademie, the Defendant Frank clarified his status as Governor General; and these remarks appear in the diary and in our Document 2233(m)-PS, at Page 42 in the document book, the original of which I offer into evidence as Exhibit Number USA-173.

In the German text, the extracts appear in the meetings of department heads, Volume 2 for 1939-1940, at Pages 5, 6, 7, and 8. Frank says:

> "One thing is certain. The authority of the Governor General as the representative of the will of the Führer and the will of the Reich in this territory is certainly strong, and I have always emphasized that I would not tolerate misuse of this authority. I have made this known anew at every office in Berlin, especially after Herr Field Marshal Göring on 12. 2. 1940, from Karin Hall, had forbidden all administrative offices of the Reich, including the Police and even the Wehrmacht, to

interfere in administrative matters of the Government General. . . ."

He goes on to say:

"There is no authority here in the Government General which is higher as to rank, stronger in influence, and of greater authority than that of the Governor General. Even the Wehrmacht has no governmental or official functions here of any kind; it has only security functions and general military duties—it has no political power whatsoever. The same applies to the Police and the SS. There is here no state within a state, but we are representatives of the Führer and of the Reich."

Later, in 1942, at a conference of the district political leaders of the NSDAP in Kraków on 18 March, Defendant Frank further explained the relationship between the administration and the Reichsführer SS Himmler. These remarks appear in the diary and in our Document 2233(r)-PS and at Page 48 of the document book, the original of which I offer into evidence as Exhibit Number USA-608. In the German text, the extract to be quoted appears at Pages 185 and 186 of diary Volume 18, 1942, Part I. I quote:

"As you know"—says Frank—"I am a fanatic as to unity in administration. . . . It is therefore clear that the Higher SS and Police Leader is subordinated to me, that the Police is a component of the Government, that the SS and Police Leader in the district is subordinated to the Governor, and that the district chief has the authority of command over the gendarmerie in his district. This the Reichsführer SS has recognized; in the written agreement all these points are mentioned word for word and signed. It is also self-evident that we cannot establish a closed shop here which can be treated in the traditional manner of small states."

THE TRIBUNAL (Mr. Biddle): Do you think all this has to be read?

LT. COL. BALDWIN: It is considered important, Sir, by the United States Prosecution, in view of the fact that this is the later extract from the diary and indicates that 2 years later even Frank considered himself to be the supreme authority in the Government General. This is a point which we conceive to be of importance, Sir. May I proceed?

THE PRESIDENT: Yes.

LT. COL. BALDWIN: "It would, for instance, be ridiculous if we would build up here a security policy of our own against our Poles in the country, while knowing that the Poles in

West Prussia, in Posen, in Warthegau, and in Silesia have one and the same movement of resistance. So the Reichsführer SS and Chief of the German Police must be able to carry out, with his agencies, his police measures concerning the interests of the Reich as a whole. This, however, will be done in such a way that the measures to be adopted will first be submitted to me and carried out only when I give my consent. In the Government General the Police are the armed forces. Consequently the leader of the Police will be called by me into the Government of the Government General; he is subordinate to me, or to my deputy, as a state secretary for security."

At this juncture, it is appropriate to mention that the man who filled the position of State Secretary for Security in the Government General was Frank's Higher SS and Police Leader, Krüger.

THE PRESIDENT: Will you read the next page?

LT. COL. BALDWIN: May it please the Tribunal; I shall come to that excerpt later.

THE PRESIDENT: In the same document?

LT. COL. BALDWIN: Yes, Sir. It seems more appropriate at another point.

The Tribunal may recall that the reports of the extermination of Jews in the Warsaw ghetto were made in the spring of 1943 by SS Leader Stroop, who immediately supervised the operation, to this same Krüger, who was still at that time one of the two most influential members of Frank's Cabinet, as State Secretary for Security.

It was inevitable that the grand conspiracy or common plan should have as its component parts a host of small plans each dealing with a particular sphere of activity. These plans, differing from the master plan only in size, are the blueprints for a specific action drawn from the broad policies. Occupied Poland was no exception to this rule. The plan for the administration of Poland was contained in a top-secret memorandum of a conference between Hitler and the Chief of the OKW, Defendant Keitel, entitled "Regarding Future Relations of Poland to Germany" and dated 20 October 1939. This report was initialed by General Warlimont. It is our Document 864-PS and may be found at Page 3 of the document book, and I shall offer it into evidence as Exhibit Number USA-609.

I shall quote, if the Court please, only from Paragraphs 1, 3, 4, and 6:

"1) The Armed Forces will welcome it if they can dispose of administrative questions in Poland. On principle, there cannot be two administrations. . . .

"3) It is not the task of the administration to make Poland into a model province or a model state of the German order or to put her economically or financially on a sound basis.

"The Polish intelligentsia must be prevented from forming a ruling class. The standard of living in the country is to remain low; we want only to draw labor forces from there. Poles are also to be used for the administration of the country. However, the forming of national political groups may not be allowed.

"4) The administration has to work on its own responsibility and must not be dependent on Berlin. We do not want to do there what we do in the Reich. The responsibility does not rest with the Berlin Ministries since there is no German administration unit concerned.

"The accomplishment of this task will involve a hard racial struggle which will not allow any legal restrictions. The methods will be incompatible with the principles otherwise adhered to by us.

"The Governor General is to give the Polish nation only bare living conditions and is to maintain the basis for military security....

"6).... Any tendencies towards the consolidation of conditions in Poland are to be suppressed. The 'Polish muddle' must be allowed to develop. The Government of the territory must make it possible for us to purify the Reich territory from Jews and Poles too. Collaboration with new Reich provinces (Posen and West Prussia) only for resettlements (compare Himmler mission).

"Purpose: Shrewdness and severity must be the maxims in this racial struggle in order to spare us from going to battle on account of this country again."

The Defendant Frank was the chosen executor of this program. He knew its aims, approved of them, and actively carried out the scheme. The Tribunal's attention has already been invited to Exhibit Number USA-297 wherein—this may be found at Page 1512 of the English text of the official transcript—(Volume III, Pages 576, 577) the Defendant Frank expounded the mission which his Führer assigned to him and according to which he intended to administer in Poland. It contemplated, in brief, ruthless exploitation, deportation of all supplies and workers, reduction of the entire Polish economy to an absolute minimum necessary for bare existence of the population, and the closing of all schools. No more callous statement exists than the one Frank made in this report, wherein he said, "Poland shall be treated as a colony; the Poles shall be the slaves of the Greater German world empire."

In December 1940 Frank submitted to his department heads that the task of administering Poland did truly involve a hard racial struggle which would not allow any legal restrictions. I refer to our Document 2233(o)-PS, which may be found at Page 45 in the document book. It is taken from the Frank diary, and I offer it in evidence as Exhibit Number USA-173. In the German text the extract to be quoted appears in the volume of the diary entitled, "Department Heads Meetings 1939-1940," on Pages 12 and 13. I now quote:

> "In this country the force of a determined leadership must rule. The Pole must feel here that we are not building him a legal state, but that for him there is only one duty, namely, to work and to behave himself. It is clear that this leads sometimes to difficulties; but you must, in your own interest, see that all measures are ruthlessly carried out in order to become master of the situation. You can rely on me absolutely in this."

As for the Poles and Ukrainians, Defendant Frank's attitude was clear. They were to be permitted to slave for the German economy as long as the war emergency continued. Once the war was won, even this cynical interest would cease. I refer to a speech before German political leaders at Kraków on 12 January 1944. It appears in the Frank diary and as our Document 2233(bb)-PS at Page 60 in the document book. It is the first passage on that page. I offer it in evidence as Exhibit Number USA-295. In the diary, the German text will be found in the loose-leaf volume covering the period from 1 January to 28 February 1944, at the entry for 14 January 1944, at Page 24. "Once the war is won" Frank tells these leaders—and here we have, may it please the Court, the classic example of the completely brutal statement:

> "Once the war is won, then, for all I care, mincemeat can be made of the Poles and the Ukrainians and all the others who run around here; it doesn't matter what happens."

In accordance with the racial program of the Nazi conspirators, the Defendant Frank makes it quite clear in his diary that the complete annihilation of Jews was one of his cherished objectives. In Exhibit Number USA-271, Frank stated in late 1940 in his diary that he could not eliminate all lice and Jews in a year's time. In Exhibit Number USA-281, he notes in his diary in the year 1942 that a program of starvation rations sentencing, in effect, 1,200,000 Jews to die of hunger, should be noted only marginally. In Exhibit Number USA-295, he confided to a secret press conference that in the year 1944—and this, too, is from the diary—there were still in the Government General perhaps 100,000 Jews.

These facts, if the Tribunal please, are from the diary of the man himself. We do no more here than to tabulate the results. The supreme authority within a certain geographic area admits that in a period of 4 years' time up to 3,400,000 persons from that area have been annihilated pursuant to an official policy and for no crime, but only because of having been born a Jew. No words could possibly reveal the inferences of death and suffering which must needs be drawn from these stark facts.

It was a Nazi policy that the population of occupied countries should endure terror, oppression, impoverishment, and starvation. The Defendant Frank succeeded so well in this regard that he was forced to report to his Führer in 1943 that, in effect, Poles did not regard the Government General with affection. This report to Hitler was a summarization of the first 3½ years of the Defendant Frank's administration. It, better than anything else, can show the conditions as they then existed as a result of the conspiratorial efforts of the defendants.

The report is contained in our Document 437-PS, at Page 2 of the document book, and I now offer the original in evidence as Exhibit Number USA-610. In the German text, the extract to be quoted appears at Pages 10 and 11 of this report by Frank to Hitler dated 19 June 1943, regarding the situation in Poland. I now quote. Frank says:

"In the course of time, a series of measures, or of consequences of the German rule, have led to a substantial deterioration of the attitude of the entire Polish people to the Government General. These measures have affected either individual professions or the entire population and frequently also—often with crushing severity—the fate of individuals."

He goes on:

"Among these are in particular:

"1. The entirely insufficient nourishment of the population, mainly of the working classes in the cities, the majority of which are working for German interests.

"Until the war of 1939 their food supplies, though not varied, were sufficient and were generally assured owing to the agrarian surplus of the former Polish State and in spite of the negligence on the part of their former political leadership.

"2. The confiscation of a great part of the Polish estates, expropriation without compensation, and evacuation of Polish peasants from maneuver areas and from German settlements.

"3. Encroachments and confiscations in the industries, in commerce and trade, and in the field of other private property.

"4. Mass arrests and shootings by the German Police who applied the system of collective responsibility.

"5. The rigorous methods of recruiting workers.

"6. The extensive paralyzing of cultural life.

"7. The closing of high schools, colleges, and universities.

"8. The limitation, indeed the complete elimination, of Polish influence from all spheres of State administration.

"9. Curtailment of the influence of the Catholic Church, limiting its extensive influence—an undoubtedly necessary move—and, in addition, until quite recently, often at the shortest notice, the closing and confiscation of monasteries, schools, and charitable institutions."

Indeed, the Nazi plan for Poland succeeded all too well.

THE PRESIDENT: This is only an extract here. Was he saying that these measures were inevitable or that he justified them, or what was he saying in the report?

LT. COL. BALDWIN: He was saying, Sir, that the Polish people's attitude to the Government General had substantially deteriorated. The reasons for that deterioration are the listings I gave to the Court. In other words . . .

THE PRESIDENT: Is that all he said?

LT. COL. BALDWIN: No, Sir; that is just taken from Pages 10 and 11 of the report. The report is an extremely long one.

THE PRESIDENT: Well, I suppose you know what the general tenor of the report was.

LT. COL. BALDWIN: The general tenor of the report, Sir, was in the nature of a complaint to Hitler, that he, Frank, was having an extremely difficult time in the Government General because of these measures and because of these happenings in the Government General.

THE PRESIDENT: Very well.

LT. COL. BALDWIN: In order to illustrate how completely the Defendant Frank is identified with the policies . . .

DR. SEIDL: *[Interposing.]* As the Tribunal has already asked the Prosecution what the purpose of this document is, I would like to point out here that it concerns a document of 40 typewritten pages addressed to Hitler and that Frank condemns the conditions which the Prosecution has brought forward and that in this document he makes far-reaching proposals to remedy the situation which he severely criticizes.

I shall, when my turn comes, read the whole document.

THE PRESIDENT: Exactly. You will have full opportunity, when it is your turn, to explain this document; but it is not your turn at the moment.

DR. SEIDL: I only mention it now because the Tribunal itself drew my attention to this point.

THE PRESIDENT: Now, Lieutenant Colonel Baldwin, I asked you what was the whole content of the document from which you were reading this paragraph. According to counsel for Frank, the document, which is a very long document, shows that Frank was suggesting remedies for the difficulties which he here sets out. Is that so?

LT. COL. BALDWIN: That is so, Your Honor.

THE PRESIDENT: Well, I think the . . .

LT. COL. BALDWIN: May it please the Tribunal, I did not cite this portion of that document, as I will later demonstrate, to show that Frank did or did not suggest remedies for these conditions; but only to explain that these conditions existed as of a certain period.

THE PRESIDENT: Well, when you cite a small part of the document, you should make sure that what you cite is not misleading as compared to the rest of the document.

LT. COL. BALDWIN: I see, Your Honor. I had not considered it to be such, in view of the purpose for which I introduced it, which, as I suggested, was only to indicate a set of conditions which existed at a certain time. I naturally assumed that the Defense, as Dr. Seidl has indicated, will carry on with the rest of the document as a matter of defense.

THE PRESIDENT: Yes, of course, that is all very well, but the Defendant Frank's counsel will speak at some remote date; and it is not a complete answer to say that he will have an opportunity of explaining the document at some future date. It is for Counsel for the Prosecution to make sure that no extracts which they read can reasonably make a misleading impression upon the mind of the Tribunal.

LT. COL. BALDWIN: I shall now state, then, that the extract which was just read was read solely for the purpose of indicating that at a certain period, namely, June 1943, those conditions existed in Poland, as the result of statements by the Governor General of Poland.

Would that be satisfactory to the Tribunal?

THE TRIBUNAL (Mr. Biddle): Well, what is not satisfactory to the Tribunal is that you did not give us the real purport of the document.

LT. COL. BALDWIN: Well, Sir, I don't have the complete document before me now. Therefore, I can't read all of it.

THE PRESIDENT: What we would like, would be, if possible, that when an extract is made from a document, counsel who are presenting that extract should instruct themselves as to the general purport of the document so as to make certain that the part that is read is not misleading.

LT. COL. BALDWIN: Yes, Sir.

In order to illustrate how completely the Defendant Frank is identified with the policies, the execution of which is reported in this document, and how thoroughly they were his own policies; and this, if the Tribunal please, regardless of what remedies he may have had in 1943, it is proposed in this last section to take passages from Frank's own diary in proof of his early espousal and execution of these self-same policies.

As to the insufficient nourishment of the Polish population, there was no need for the Defendant Frank to have waited until June 1943 to have reported this fact to Hitler. In September 1941 Defendant Frank's own chief medical officer reported to him the appalling Polish health conditions. This appears in Frank's diary and in our Document 2233(p)-PS, at Page 46 in the document book, which I now offer in evidence as Exhibit Number USA-611. The German text is to be found in the 1941 diary volume at Page 830. I quote:

> "Chief Medical Adviser Dr. Walbaum expresses his opinion of the health condition of the Polish population. Investigations which were carried out by his department proved that the majority of Poles had only about 600 calories allotted to them, whereas the normal requirement for a human being was 2,200 calories. The Polish population was weakened to such an extent that it would fall an easy prey to spotted fever."— Parenthetically, I think we know that as typhus.
>
> "The number of diseased Poles has amounted to date to 40 percent. During the last week alone, 1,000 new spotted fever cases were officially recorded. That is so far the highest figure. This health situation represents a serious danger for the Reich and for the soldiers coming into the Government General. A spreading of that pestilence into the Reich is very possible. The increase in tuberculosis, too, is causing anxiety. If the food rations were to be diminished again, an enormous increase of the number of illnesses could be predicted."

While it was crystal-clear from this report that in September 1941 disease affected 40 percent of the Polish population, nevertheless the Defendant Frank approved, in August 1942, a new plan

which called for a much larger contribution of foodstuffs to Germany at the expense of the non-German population of the Government General. Methods of meeting the new quotas out of the grossly inadequate rations of the Government General and the impact of the new quotas on the economy of the country were discussed at a cabinet meeting of the Government General on 24 August 1942 in terms which leave no possible doubt that not only was the proposed requisition beyond the resources of the country, but its force was to be distributed on a grossly discriminatory basis. This appears from Frank's diary and in our Document 2233(e)-PS, which is at Page 30 in the document book, which I now offer in evidence as Exhibit Number USA-283. The German text appears in the 1942 conference volume at the conference entry for 24 August 1942. I quote the following extract:

> "Before the German people"—said Frank—"suffer starvation, the occupied territories and their people shall be exposed to starvation. In this moment, therefore, we here in the Government General must have the iron determination to help the great German people, that is our fatherland.
>
> "The Government General, therefore, must do the following: The Government General has undertaken to send 500,000 tons of bread grain to the fatherland in addition to the foodstuffs already being delivered for the relief of Germany or consumed here by troops of the Armed Forces, Police, or SS. If you compare this with our contributions of last year you can see that this means a six-fold increase over that of last year's contribution by the Government General.
>
> "The new demand will be fulfilled exclusively at the expense of the foreign population. It must be done cold-bloodedly and without pity."

Defendant Frank was not only responsible for reducing the Government General to starvation level, but was proud of the contribution he thereby made to the Reich. I refer to a statement made to the political leaders of the NSDAP on 14 December 1942 at Kraków. It is contained in the Frank diary and is our Document 2233(z)-PS, at Page 57 in the document book; and I now offer it in evidence as Exhibit Number USA-612. In the German text the extract appears in the 1942 diary volume, Part IV, at Page 1331. Defendant Frank is speaking:

> "I will endeavor to get out of the reservoir of this territory everything that is yet to be had out of it."

He continues:

> "When you consider that it was possible for me to deliver to the Reich 600,000 tons of bread grain and in addition 180,000

tons to the Armed Forces stationed here; further, an abundance amounting to many thousands of tons of other commodities, such as seed, fats, vegetables, besides the delivery to the Reich of 300 million eggs, *et cetera,* you can estimate how important the work in this territory is for the Reich. In order to make clear to you the significance of the consignment from the Government General of 600,000 tons of bread grain, you are referred to the fact that the Government General, by this achievement alone, covers the raising of the bread ration in the Greater German Reich by two-thirds for the present rationing period. This enormous achievement can rightfully be claimed by us."

Now, as to the resettlement of Polish peasants which Defendant Frank mentions secondly in the report to Hitler—although Himmler was given general authority in connection with the conspirators' project to resettle various districts in the conquered Eastern territories with racial Germans, the projects relating to resettling districts in the Government General were submitted to and approved by the Defendant Frank. The plan to resettle Zamosc and Lublin, for example, was reported to him at a meeting to discuss special problems of the district Lublin by his infamous State Secretary for Security, Higher SS and Police Leader, Krüger, on 4 August 1942. It is contained in Frank's diary and in our Document 2233(t)-PS, at Page 51 in the document book, which I now offer in evidence as Exhibit Number USA-607. The German text appears in the 1942 volume of the diary, Part III, Pages 830, 831, and 832.

I now quote from the report of the conference:

"State Secretary Krüger then continues, saying that the Reichsführer's next immediate plan until the end of the following year would be to settle the following German racial groups in the two districts"—Zamosc and Lublin—"1,000 peasant homes (1 homestead per family of about 6) for Bosnian Germans; 1,200 other kinds of homes; 1,000 homesteads for Bessarabian Germans; 200 for Serbian Germans; 2,000 for Leningrad Germans; 4,000 for Baltic Germans; 500 for Wolhynia Germans; and 200 homes for Flemish, Danish, and Dutch Germans; in all 10,000 homes for 50,000 to 60,000 persons."

Upon hearing this, the Defendant Frank directed that—and I quote:

"... the resettlement plan is to be discussed co-operatively by the competent authorities and he declares his willingness to approve the final plan by the end of September after satisfactory arrangements had been made concerning all the

questions appertaining thereto—in particular the guaranteeing of peace and order—so that by the middle of November, as the most favorable time, the resettlement can begin."

THE PRESIDENT: The Tribunal will adjourn now for 10 minutes.

[A recess was taken.]

LT. COL. BALDWIN: May it please the Tribunal, the way in which the resettlement at Zamosc was carried out was described to Defendant Frank by Krüger at a meeting at Warsaw on January 25, 1943. The report is contained in the Frank diary and is our Document 2233(aa)-PS, and appears at Page 58 in the document book. I offer the original of it in evidence as Exhibit Number USA-613. The German text appears in the labor conference volume for 1943, at Pages 16, 17, and 19. Krüger in this excerpt reports that they had settled the first 4,000 in the Kreis Zamosc shortly before Christmas; that, understandably, friends were not made of the Poles in the resettlement program; and that the Poles had to be chased out. He then stated to Frank, and I quote:

"We are removing those who constitute a burden in this new colonization territory. Actually, they are the asocial and inferior elements. They are being deported; first brought to a concentration camp and then sent as labor to the Reich. From a Polish propaganda standpoint, this entire first action has an unfavorable effect. For the Poles say: 'After the Jews have been destroyed, then they will employ the same methods to get the Poles out of this territory and liquidate them just like the Jews.'"

Krüger went on to mention that there was a great deal of unrest in the territory as a result; and Frank informed him, that is, Krüger, that each individual case of resettlement would be discussed in the future exactly as that one of Zamosc had been.

Although the illegality of this dispossession of Poles to make room for Germans was evident and although the fact that the Poles who were not only being dispossessed but sent off to concentration camps became increasingly difficult to handle, the resettlement projects continued in the Government General.

The third item mentioned by Frank—the encroachments and confiscations of industry and private property—was again an early Frank policy. He explained this to his department heads in December 1939. The report is from his diary and is our Document 2233(k)-PS, and it appears at Page 40 in the document book. I now offer it in evidence as Exhibit Number USA-173. The German text

appears in the department heads conference volume for 1939-40 at the entry for 2 December 1939 at Pages 2 and 3. Dr. Frank states:

> "Principally it can be said regarding the administration of the Government General: This territory in its entirety is booty for the German Reich, and thus it will not do for this territory to be exploited in separate individual parts; but the territory in its entirety shall be economically used and its entire economic worth redound to the benefit of the German people."

Reference is made to Exhibit Number USA-297, if any further support of an early policy of ruthless exploitation is deemed necessary by the Tribunal. In addition, the decree permitting sequestration in the Government General heretofore pointed out to the Tribunal *(Verordnungsblatt für das Generalgouvernement,* Number 6, 27 January 1940, Page 23), which decree was signed by the Defendant Frank, permitted and empowered the Nazi officials to engage in wholesale seizure of property. This was made the easier by the undefined criteria of the decree. The looting of the Government General under this and other decrees has already been presented to the Tribunal on 14 December 1945, under the subject heading, "Germanization and spoliation of occupied territories," and the Tribunal is respectfully referred to that portion of the record and in particular to that segment dealing with the Government General.

The Defendant Frank mentioned mass arrests and mass shooting and the application of collective responsibility as the fourth reason for the apparent deterioration of the attitude of the entire Polish people. In this, too, he is to blame, for it was no part of Defendant Frank's policy that reprisal should be commensurate with the gravity of the offense. He was, on the contrary, an advocate of the most drastic measures. At a conference of district political leaders at Kraków, on 18 March 1942, Frank stated his policy. This extract is from the diary and is our Document 2233(r)-PS and will be found at Page 49 in the document book. I offer it in evidence as Exhibit Number USA-608. The German text may be found in the diary volume for 1942, Part I, Pages 195 and 196. I quote Frank's statement:

> "Incidentally, the struggle for the achievement of our aims will be pursued cold-bloodedly. You see how the state agencies work. You see that we do not hesitate at anything, and stand dozens of people up against the wall. This is necessary because a simple reflection tells me that it cannot be our task at this period, when the best German blood is being sacrificed, to show regard for the blood of another race; for out of this, one of the greatest dangers may arise. One already hears today in Germany that prisoners of war, for

instance, in Bavaria or Thuringia, are administering large estates entirely independently, while all the men in a village fit for service are at the front. If this state of affairs continues, then a gradual retrogression of Germanism will result. One should not underestimate this danger. Therefore, everything revealing itself as a Polish power of leadership must be destroyed again and again with ruthless energy. This does not have to be shouted abroad; it will happen silently."

And on 15 January 1944 Defendant Frank assured the political leaders of the NSDAP that reprisals would be made for German deaths. These remarks are to be found in the Frank diary, in our Document 2233(bb)-PS at Page 60 in the document book, the second quote on that page, the original of which I offer in evidence as Exhibit Number USA-295. The German text appears in the loose-leaf volume of the diary covering the period from 1 January 1944 to 28 February 1944, and appears at Page 13. Frank says quite simply—"I have not hesitated to declare that when a German is shot, up to 100 Poles shall be shot too."

The whole tragic history of slave labor and recruitment of workers has been placed before this Tribunal in great detail. When the Defendant Frank refers to these methods as his fifth reason for disaffection in Poland in his report to Hitler, he once more cites policies which he executed. Force, violence, and economic duress were all supported by him as means for recruiting laborers for deportation to slavery in Germany. This was an announced policy, and I have already alluded to Exhibit Number USA-297, which contains verification of this fact.

While in the very beginning recruitment of laborers in the Government General may have been voluntary, these methods soon proved inadequate. In the spring of 1940 the question of utilizing force came up and the matter was discussed at an official meeting at which the Defendant Seyss-Inquart was also present. I refer to the Frank diary and our Document 2233(n)-PS, which the Tribunal will find at Page 43 in the document book. I offer the original in evidence as Exhibit Number USA-614. The German text appears in the diary volume for 1940, Part II, at Page 333. I quote the conference report:

"The Governor General stated that all means in the form of proclamations, *et cetera,* not having succeeded, one is led to the conclusion that the Poles, out of malevolence and with the intention of harming Germany by not putting themselves at its disposal, refuse to enlist for labor service. Therefore, he asks Dr. Frauendorfer if there are any other measures not as yet employed to win the Poles on a voluntary basis.

"Reichshauptamtsleiter Dr. Frauendorfer answered the question in the negative.

"The Governor General emphasized the fact that he will now be asked to take a definite attitude towards this question. Therefore, the question will arise whether any form of coercive measures should now be employed.

"The question put by the Governor General to SS Lieutenant General Krüger as to whether he sees possibilities of calling Polish workers by coercive means, is answered in the affirmative by SS Lieutenant General Krüger."

In May 1940, at an official conference—and this record is already before the Tribunal as Exhibit Number USA-173—Defendant Frank stated that compulsion in recruitment of labor could be exercised, that Poles could be snatched from the streets and that the best method would be organized raids.

As in the case of persecution of the Jews, the forced labor program in the Government General is almost beyond belief. I refer to the Frank diary and to our Document 2233(w)-PS, which will be found at Page 53 in the document book, the original of which I offer into evidence as Exhibit Number USA-607. This excerpt is a record, if the Court please, of a discussion between the Defendant Sauckel and the Defendant Frank at Kraków on 18 August 1942; and it appears in the diary volume for 1942, Part III, at Pages 918 and 920. Dr. Frank speaks:

"I am pleased to report to you officially, Party Comrade Sauckel, that we have up to now supplied 800,000 workers for the Reich . . . ."

He continues:

"Recently you have requested us to supply a further 140,000. I have pleasure in informing you officially that in accordance with our agreement of yesterday, 60 percent of the newly requested workers will be supplied to the Reich by the end of October and the balance of 40 percent by the end of the year."

Dr. Frank continues:

"Beyond the present figure of 140,000 you can, however, next year reckon upon a higher number of workers from the Government General, for we shall employ the Police to conscript them."

How this recruitment was carried out—by wild and ruthless manhunts—is clearly shown in Exhibit Number USA-178, which is in evidence before the Tribunal. Starvation, violence, and death, which characterized the entire slave labor program of the conspirators, was thus faithfully reflected in the administration of the Defendant Frank.

There were, of course, other grounds for uneasiness in occupied Poland which the Defendant Frank did not mention in his report to Hitler. He does not mention the concentration camps, perhaps because as a representative jurist of National Socialism, the Defendant Frank had himself defended the system in Germany. As Governor General the Defendant Frank, we feel, must be held responsible for all concentration camps within the boundaries of the Government General. These include, among others, the notorious camp at Maidanek and the one at Lublin and at Treblinka outside of Warsaw. As indicated previously, the Defendant Frank knew and approved that Poles were taken to concentration camps in connection with resettlement projects. He had certain jurisdiction as well in relation to the extermination camp Auschwitz, to which Poles from the Government General were committed by his administration. In February 1944 Embassy Counsellor Dr. Schumberg suggested a possible amnesty of Poles who had been taken to Auschwitz for trivial offenses and kept there for several months. This conference, if the Court please, is reported in the Frank diary and is contained in our Document 2233(bb)-PS, at Page 60 in the document book. It is the third quote on that page. I offer the original in evidence as Exhibit Number USA-295.

THE PRESIDENT: You go too fast. Did you say Page 70?

LT. COL. BALDWIN: Page 60, Sir. The German text appears in the loose-leaf volume covering the period 1 January 1944 to 28 February 1944, at the conference on 8 February 1944, on Page 7. I quote:

> "The Governor General will take under consideration an amnesty probably for 1 May of this year. Nevertheless, one must not lose sight of the fact that the German leadership of the Government General must not now show any sign of weakness."

This, then, was and is the conspirator Hans Frank. The evidence is by no means exhausted, but it is our belief that sufficient proof has been given to this Tribunal to establish his liability under Count One of the Indictment.

As legal adviser of Hitler and the Leadership Corps of the NSDAP, Defendant Frank promoted the conspirators' rise to power. In his various juridical capacities, both in the NSDAP and in the German Government, Defendant Frank certainly advocated and promoted the political monopoly of the NSDAP, the racial program of the conspirators, and the terror system of the concentration camps and of arrest without warrant. His role, early in the Common Plan, was to realize "the National Socialist program in the realm of the law" and to give the outward form of legality to this program of

terror, persecution, and oppression which had as its ultimate purpose mobilization for aggressive war.

As a loyal adherent of Hitler and the NSDAP, Defendant Frank was appointed Governor General in 1939 of that area of Poland known as the Government General. Defendant Frank had defined justice as that which benefited the German nation. His 5 years' administration of the Government General illustrates the most extreme extension of that principle.

It has been shown that Defendant Frank took the office of Governor General under a program which constituted in itself a criminal plan or conspiracy, as Defendant Frank well knew and approved, to exploit the territory ruthlessly for the benefit of Nazi Germany, to conscript its nationals for labor in Germany, to close its schools and colleges, to prevent the rise of a Polish intelligentsia, and to administer the territory as a colonial possession of the Third Reich in total disregard of the duties of an occupying power towards the inhabitants of occupied territory.

Under Defendant Frank's administration this criminal plan was consummated, but the execution went even beyond the plan. Food contributions to Germany increased to the point where the bare subsistence reserved for the Government General under the plan was reduced to a level of mass starvation. The savage program of exterminating Jews was relentlessly executed. Resettlement projects were carried out with reckless disregard of the rights of the local population and the terror of the concentration camp followed in the wake of the Nazi invaders.

This statement of evidence has been compiled in large part from statements by the Defendant Frank himself, from the admission found in his diary, official reports, reports of conferences with his colleagues and subordinates, and his speeches. It is therefore appropriate that a passage from his diary should be quoted in conclusion. It is our Document 2233 (aa)-PS. It appears at Page 59 in the document book. I offer the original in evidence as Exhibit Number USA-613. The German text appears in the 1943 volume of labor conference meetings at the 25 January 1943 entry on Page 53. In his address Defendant Frank, prophetically enough, told his colleagues in the Government General that their task would grow more difficult. "Hitler", he said, "could help them only as a kind of 'administrative pill box.' " They must depend on themselves.

> "We are now duty bound to hold together"—and I quote Frank—"We must remember that we who are gathered together here figure on Mr. Roosevelt's list of war criminals. I have the honor of being Number One. We have, so to speak, become accomplices in the world historic sense."

This concludes the presentation on the Defendant Frank.

May it please the Tribunal, Lieutenant Colonel Griffith-Jones of the British Delegation will now deal with the individual responsibility of the Defendant Streicher.

LIEUTENANT COLONEL M. C. GRIFFITH-JONES (Junior Counsel for the United Kingdom): If the Tribunal please, it is my duty to present the case against the Defendant Julius Streicher.

Appendix A of the Indictment, that paragraph of the Appendix relating to Streicher, sets out the positions which he held and which I shall prove. It then goes on to allege that he used those positions and his personal influence and his close connection with the Führer in such a manner that he promoted the accession to power of the Nazi conspirators and the consolidation of their control over Germany, as set forth in Count One of the Indictment; that he authorized, directed, and participated in the Crimes against Humanity, set forth in Count Four of the Indictment, including particularly the incitement of the persecution of the Jews, set forth in Count One and Count Four of the Indictment.

My Lord, the case against this defendant can be, perhaps, described by the unofficial title that he assumed for himself as "Jew-baiter Number One." It is the Prosecution's case that for the course of some 25 years this man educated the whole of the German people in hatred and that he incited them to the persecution and to the extermination of the Jewish race. He was an accessory to murder, perhaps on a scale never attained before.

With the Tribunal's permission I propose to prove quite shortly the position and influence that he held and then to refer the Tribunal to several short extracts from his newspapers and from his speeches and then to outline the part that he played in the particular persecutions that occurred against the Jews between the years 1933 and 1945.

My Lord, perhaps before I start, I might say that the document book before the members of the Tribunal is arranged in the order in which I intend to refer to the documents. They are paged and there is an index at the beginning of the book and if the Tribunal have got what is called the trial brief, it is in effect a note of the evidence to which I shall refer and again in the order in which I shall refer to it, which may be of some assistance.

My Lord, this defendant was born in 1885. He became a school teacher in Nuremberg and formed a party of his own, which he called the German Socialist Party. The chief policy of that party, again, was anti-Semitism. In 1922 he handed over his party to Hitler; and there is a glowing account of his generosity which appears in Hitler's *Mein Kampf,* which I do not think it worth occupying the time of the Tribunal in reading. It appears as Document M-3, and is the first document in the Tribunal's document book.

The copy of *Mein Kampf* is already before the Tribunal as Exhibit GB-128.

The appointments that he held in the Party and State were few. From 1921 until 1945 he was a member of the Nazi Party. In 1925 he was appointed Gauleiter of Franconia, and he remained as such until about February of 1940; and from the time that the Nazi Government came into power in 1933 until 1945, he was a member of the Reichstag. In addition to that he held the title of Obergruppenführer in the SA. All that information appears in Document 2975-PS, which is already exhibited as Exhibit Number USA-9, and is the affidavit that he made himself.

The propaganda that he carried out throughout those years was chiefly done through the medium of his newspapers. He was the editor and publisher of the paper called *Der Stürmer*, which was a weekly journal, from 1922 until 1933; and thereafter the publisher and owner of the paper.

In 1933 he also founded and thereafter, I think, published—certainly was responsible for—the daily newspaper called the *Fränkische Tageszeitung*.

There were, in addition to that and particularly later, several others, mostly local journals, that he published from Nuremberg.

Those are the positions that he held; and now if I may, I shall quite briefly trace the course of his incitement and propaganda more or less in chronological order by referring the Tribunal to the short extracts. I would say this: These extracts are really selected at random. They are selected with a view to showing the Tribunal the various methods that he employed to incite the people against the Jewish race; but his newspapers are crowded with them, week after week, day after day. It is impossible to pick up any copy without finding the same kind of stuff in the headlines and in the articles.

If I might quote from four speeches and articles showing his early activities from 1922 until 1933—at Page 3 of the Tribunal's document book, Document M-11—that is an extract from a speech that he made in 1922 in Nuremberg, and—after abusing the Jews in the first paragraph—I refer only to the last two lines: "We know that Germany will be free when the Jew has been excluded from the life of the German people."

I pass to the next document, which is M-12, on Page 4. The first document was Exhibit GB-165. That is the book, I understand, that is being given that number, so that the next document, which is taken from the same book, will be the same. Perhaps I might be allowed to read that short extract. It is an extract from a speech:

"I beg you and particularly those of you who carry the cross throughout the land, to become somewhat more serious when

I speak of the enemy of the German people, namely, the Jew. Not out of irresponsibility or for fun do I fight against the Jewish enemy, but because I bear within me the knowledge that the whole misfortune was brought to Germany by the Jews alone.

"... I ask you once more, what is at stake today? The Jew seeks domination not only among the German people but among all peoples. The Communists pave the way for him .... Do you not know that the God of the Old Testament ordered the Jews to devour and enslave the peoples of the earth? ...

"The Government allows the Jew to do as he pleases. The people expect action to be taken ....You may think about Adolf Hitler as you please, but one thing you must admit. He possessed the courage to attempt to free the German people from the Jew by a national revolution. That was a great deed."

The next short extract appearing on the next page is taken from a speech in April of 1925:

"You must realize that the Jew wants our people to perish .... That is why you must join us and leave those who have brought you nothing but war and inflation and discord. For thousands of years the Jew has been destroying the nations."

I ask the Tribunal to note now these last few words:

"Let us start today, so that we can annihilate the Jews."

My Lord, so far as I have been able to find, that is the earliest expression of annihilation of the Jewish race. Perhaps it gave birth to what was 14 years later to become the official policy of the Nazi Government.

And one further passage from this period. This is in April 1932, Document M-14, taken from the same book. He starts by saying, "For 13 years I have fought against Jewry." I quote the last paragraph only:

"We know that the Jew, whether he is baptized as a Protestant or as a Catholic, remains a Jew. Why can you not realize this, you Protestant clergymen, you Catholic priests! You are blinded and serve the God of the Jews who is not the God of love but the God of hate. Why do you not listen to Christ, who said to the Jews, 'You are the children of the Devil.' "

That, then, was the kind of performance he was putting up during those early years. When the Nazi Party came to power, they officially started their campaign against the Jews by the boycott of 1 April 1933. Now, of that boycott the Tribunal have already had evidence; and I would do no more now than to remind the Tribunal in a word what happened.

The boycott was agreed on and approved of by the whole Government, as was shown in a document which is already before you, Document 2409-PS, Exhibit Number USA-262, which was Goebbels' diary.

Streicher was appointed the chairman of the central committee for the organization of that boycott, which appears in Document 2156-PS, Exhibit Number USA-263. It was then said that he started his work on Wednesday, the 29th.

On that same day the central committee issued a proclamation in which they said that the boycott would start on Saturday at 10:00 a.m. sharp. "Jewry will realize whom it has challenged." That short quotation appears in Document 3389-PS, which is USA-566, which is a volume—in actual fact, it is a copy of *Der Stürmer* which is already before the Court.

I would refer the Tribunal to one short passage from an article in the *Nationalsozialistische Partei Korrespondenz* which the defendant wrote on the 30th of March, before the boycott was due to start. It is Document 2153-PS and appears on Page 12 of the Tribunal's book, which becomes Exhibit GB-166. There he writes, under the title, "Defeat the enemy of the world!—by Julius Streicher, official leader of the central committee to combat the Jewish atrocity and boycott campaign.":

> "Jewry wanted this battle. It shall have it until it realizes that the Germany of the brown battalions is not a country of cowardice and surrender. Jewry will have to fight until we have won victory.
>
> "National Socialists! Defeat the enemy of the world. Even if the world is full of devils, we shall succeed in the end."

As head of the central committee for that boycott, Streicher outlined in detail the organization of the boycott in orders which the committee published on the 31st of March 1933, which is the next document in the book, Document 2154-PS, Exhibit GB-167. I can summarize those.

The committee stressed that no violence is to be employed against the Jews on the occasion of that boycott, but not perhaps for humane reasons; it is because, if there is no violence employed, then Jewish employers will have no grounds for discharging their employees without notice; and they will have no ground for refusing to pay them any wages.

The Jews were also reported apparently to be transferring businesses to German figureheads in order to alleviate the results of this persecution, and the committee laid it down that any

property to be transferred was to be considered as Jewish for the purpose of the boycott.

I do not think I need go into that any further. It does show that at that date he was taking a leading part, and a leading part as appointed by the Government, in the persecution of the Jews.

I would now refer the Court again to a few further extracts to show the form that this propaganda developed as the years went on. At Page 18 of the document book, Document M-20, we have an article in the New Year's issue of a new paper that he had just founded. It was a semi-medical paper called *German People's Health Through Blood and Soil,* edited by himself; and it is an example of the really remarkable lengths to which he went in putting over this propaganda against the Jews. I quote:

> "For the initiated it is established for all time: 'alien albumen' is the sperm of a man of alien race. The male sperm in cohabitation is partially or completely absorbed by the female, and thus enters her bloodstream. One single cohabitation of a Jew with an Aryan woman is sufficient to poison her blood forever. Together with the 'alien albumen' she has absorbed the alien soul. Never again will she be able to bear purely Aryan children, even when married to an Aryan. They will all be bastards, with a dual soul and a body of a mixed breed. Their children, too, will be crossbreeds; that means, ugly people of unsteady character and with a tendency to illnesses....
>
> "Now we know why the Jew uses every artifice of seduction in order to ravish German girls at as early an age as possible; why the Jewish doctor rapes his female patients while they are under anaesthesia.... He wants the German girl and the German woman to absorb the alien sperm of the Jew. She is never again to bear German children!
>
> "But the blood products of all animal organisms right down to bacteria, thus serum, lymph, extracts from internal organs, *et cetera,* are also 'alien albumen.' They have a poisonous effect if directly introduced into the blood stream either by vaccination or by injection.
>
> "The worst is that by these products of sick animals the blood is defiled, the Aryan is impregnated with an alien species.
>
> "The author and abettor of such action is the Jew. He has been aware of the secrets of the race question for centuries, and therefore plans systematically the annihilation of the nations which are superior to him. Science and 'authorities' are his instruments for the enforcing of pseudoscience and the concealment of truth."

That becomes, My Lord, Exhibit GB-168.

The next document, also at the beginning of 1935, an extract from his own paper *Der Stürmer,* is entitled "The Chosen People of the Criminals":

> "And all the same, or let us say, just because of this, the history book of the Jews, which is usually called the Holy Scriptures, impresses us as a horrible criminal romance, which makes the 150 shilling-shockers of the British Jew, Edgar Wallace, grow pale with envy. This 'holy' book abounds in murder, incest, fraud, theft, and indecency."

On the 4th of October 1935—and the Tribunal will remember that that was the month after the Nuremberg Decrees had been made—he made a speech which is reported in the *Völkischer Beobachter* and is entitled in that newspaper, "Safeguard of German Blood and German Honor." I read the report in that article: "Gauleiter Streicher speaks at a German Labor Front mass demonstration for the Nuremberg laws." Then the first line of the actual article says that he spoke for the second time within a few weeks. I quote only the last two lines of that first large paragraph: "...we have therefore to unmask the Jew, and that is what I have been doing for the past 15 years." That remark apparently was met with tempestuous applause. That document, M-34, becomes Exhibit GB-169.

And, My Lord, I think it unnecessary to quote from the next document in the Tribunal's book. It is very much the same type of thing. On Page 22 of the document book, Document M-6, there is a leading article by Streicher in his *Der Stürmer* of which I would refer only to the last half of the last paragraph where again he emphasizes the part that he himself has taken in this campaign.

> "The *Stürmer's* 15 years of work of enlightenment has already led an army of initiated—millions strong—to National Socialism. The continued work of *Der Stürmer* will help to ensure that every German down to the last man will, with heart and hand, join the ranks of those whose aim it is to crush the head of the serpent Pan-Juda beneath their heels. He who helps to bring this about helps to eliminate the devil, and this devil is the Jew."

That document becomes Exhibit GB-170.

The next document—I include it in the document book again only to show the extraordinary length to which he went in his propaganda; and it consists of a photograph of the burning hull of the airship *Hindenburg* when it went on fire in June 1937 in America. Underneath it the caption includes the comment:

> "The first radio picture from the United States of America shows quite clearly that a Jew stands behind the explosion of

our airship *Hindenburg*. Nature has depicted quite clearly and quite correctly that devil in human guise."

And although it is not at all clear from that photograph, I think the meaning of that comment is that the cloud of smoke in the air is in the shape of a Jewish face.

On the next page Document M-4 is a speech he made in September 1937 at the opening of a bridge in Nuremberg. I will quote only the last paragraph on Page 24. The bridge in question is called the Wilhelm Gustloff bridge, and he says:

"The man who murdered Wilhelm Gustloff must have come from the Jewish people, because the Jewish text books teach that every Jew has the right to kill a non-Jew; and indeed, that it is pleasing to the Jewish God to kill as many non-Jews as possible.

"Look at the road the Jewish people have been following for thousands of years past; everywhere murder, everywhere mass murder! Neither must we forget that behind present-day wars there stands the Jewish financier who pursues his aims and interests. The Jew always lives on the blood of other nations; he needs such murder and such victims. For us who know, the murder of Wilhelm Gustloff is the same as ritual murder."

And then on the next page:

"It is our duty to tell the children at school and the bigger ones what this memorial means...."

I go to the next paragraph:

"The Jew no longer shows himself among us openly as he used to. But it would be wrong to say that victory is ours. Full and final victory will have been achieved only when the whole world is rid of Jews."

That becomes Exhibit GB-171.

Now the next two documents in your document books are simply extracts from the correspondence columns of his *Der Stürmer*, showing again one of the methods he employed in this propaganda. I do not need to read them. The correspondence columns of all his issues are full of letters coming in from Germans saying that some German has been buying her shoes from a Jewish shop and so on, and in that way assisting in the general boycott of the Jews. In other words, they really are a weekly column of libels against the Jews all over Germany.

I pass then to another and particular form of propaganda that he employed and which he called "ritual murder." The Tribunal may well remember that some years ago—I think it started in 1934—

this *Der Stürmer* began publishing accounts of Jewish ritual murder which horrified the whole world to such an extent that even the Archbishop of Canterbury eventually wrote to the *Times* protesting, as indeed did people from every country in the world, protesting that any Government should allow matter like this to be published in their national newspapers.

He takes his ritual murder, I understand, from a medieval belief that during their Eastertide celebrations the Jews were in the habit of murdering Christian children; and he enlarges upon this and misrepresents this belief, this medieval belief, to show that not only did they do it in the Middle Ages, but that they are still doing it and still want to do it. And if I might just quote one or two passages from his newspapers and show one or two pictures which he published in connection with his campaign of ritual murder, it will illustrate to the Court the type of teaching and propaganda that he was putting up. On Page 29 of the Tribunal's document book, I will quote from the third but last paragraph:

> "This the French front-line soldier should take with him to France: The German people have taken a new lease on life. They want peace, but if anybody should attack them, if anyone should try to torture them again, to throw them back into the past, then the world would witness another heroic epic; then may Heaven decide where righteousness lies—here with us, or where the Jew has the whiphand and where he instigates massacres, one could almost say the biggest ritual murders of all times. If the German people are to be slaughtered according to the Jewish rites, the whole world will be thus slaughtered at the same time."

And the last paragraph:

> "Just as you have drummed morning and evening prayers into your children's heads, so now drum this into their heads, so that the German people may gain the spiritual power to convince the rest of the world which the Jews desire to lead against us."

That Document is M-2, Exhibit GB-172.

And on the following page of the document book there is a reproduction of a photograph taken from *Der Stürmer* of April 1937 which illustrates three Jews ritually murdering a girl by cutting her throat and shows the blood pouring out into a bucket on the ground. The caption underneath that photograph is as follows:

> "Ritual Murder at Polna. Ritual murder of Agnes Hruza by the Jews Hilsner, Erdmann, and Wassermann (taken from a contemporary postcard.)"

That is Exhibit Number USA-258. It is already in a copy of *Der Stürmer,* which has been put in.

There appears on the next page of the document book an extract from that same *Der Stürmer,* April 1937. I will not read it now, because it has been put in and has all been read to the Court. It describes what happens when ritual murder takes place, and the blood is mixed with the bread and drunk by the Jews having their feast. The Tribunal will remember that during the feast the head of the family exclaims, "May all gentiles perish—as the child whose blood is contained in the bread and wine."

That is already Exhibit Number USA-258, and it has been read in the transcript at Page 1437 (Volume III, Pages 522, 523).

THE PRESIDENT: Would that be a good time to break off?

LT. COL. GRIFFITH-JONES: If My Lordship pleases.

[A recess was taken until 1400 hours.]

Afternoon Session

LT. COL. GRIFFITH-JONES: May it please the Tribunal, if I might just refer to two further copies of *Der Stürmer* on the subject of "ritual murder," the first of which appears on Page 32 of the document book, 2700-PS. It is the copy in Exhibit USA-260. It is an article in *Der Stürmer* for July 1938:

> "Whoever has had the occasion to be an eyewitness to the ritualistic slaughtering of animals or at least to see a truthful film on this method of slaughtering will never forget this gruesome experience. It is horrifying. And instinctively he is reminded of the crimes which the Jews have committed for centuries on human beings. He will be reminded of the ritual murder. History offers hundreds of cases in which non-Jewish children were tortured to death by Jews. They, too, received the same gash in the throat as is found on ritualistically slaughtered animals. They, too, were slowly bled to death while fully conscious."

My Lord, on special occasions, or when he had some particular subject matter to put before the world, he was in the habit of issuing special editions of his newspaper *Der Stürmer*. Ritual murder was such a special subject that he issued one of these special editions dealing solely with it. The Tribunal will have a photostatic copy of the complete issue for May 1939.

Now I have not attempted to have translated all, or indeed any, of the articles which appear in that edition. It is perhaps sufficient to look at the pictures, the illustrations, and for me to read the captions which appear underneath the photographs; and I regret the translations of the captions have not been attached to the Tribunal's copy but perhaps I may be permitted to refer to the pictures and read the captions for the Tribunal.

The pages are marked in red pencil on the right-hand corner. On Page 1 I see a picture of a child having knives stuck into its side, blood spurting from it, and below the pedestal on which it stands are five presumably dead children lying on the ground. The caption to that picture is as follows:

> "In the year 1476 the Jews in Regensburg murdered six boys. They drew their blood and tortured them to death. In an underground vault which belonged to the Jew Josfol, the judges found the bodies of the murdered boys. A blood-stained earthen bowl stood on an altar."

On the next page there are two pictures, and the captions explain them. The one at the top left-hand corner:

> "For the Jewish New Year celebrations in 1913, World Jewry published this picture as a postcard. On the Jewish

New Year and on the Day of Atonement the Jews slaughter a so-called 'kapores cock,' that is to say, dead cock, whose blood and death is intended to purify the Jews. In 1913 the 'kapores cock' had the head of the Russian Czar Nicholas II. By publishing this postcard the Jews intended to say that Nicholas II would be their next political purifying sacrifice. On the 16th of July 1918 the Czar was murdered by the Jews Jurovsky and Goloschtschekin."

The picture at the bottom of the page, again, has a Jew holding a similar bird:

"The 'kapores cock' has the head of the Führer. The Hebrew script says that one day Jews will 'kill all Hitlerites.' Then they, the Jews, will be delivered from all misfortunes. But in due course the Jews will realize that they have reckoned without an Adolf Hitler."

The next page of the newspaper contains reproductions of a lot of previous articles on ritual murder, with a picture of the Defendant Julius Streicher at the top.

On the fourth page, a picture at the bottom of the right-hand corner has the caption:

"Jew at the Passover Meal. The wine and matzoth,"—unleavened bread—"contain non-Jewish blood. The Jew 'prays' before the meal. He 'prays' for death to all non-Jews."

On the fifth page are reproductions from some of the European and American newspaper articles and letters which had been received by those newspapers during the course of the last years in protest to this propaganda on the subject of ritual murder, and in the center of it you will see the letter from the Archbishop of Canterbury written to the editor of the *Times* in protest.

On the next page, Page 6, is another ghastly picture of a man having his throat cut—again the usual spurt of blood falling into a basin on the floor—and the caption to that is as follows:

"The Ritual Murder of the Boy Heinrich. In the year 1345 the Jews in Munich slaughtered a non-Jewish boy. The martyr was beatified by the Church."

On Page 7 appears a picture representing three ritual murders. On Page 8 there is another photo-picture:

"St. Gabriel. This boy was crucified and tortured to death by the Jews in the year 1690. The blood was drawn from him."

I think we can pass Page 9 and Page 10.

On Page 11 there is shown a piece of sculpture which appears on the wall of the Wallfahrts Chapel in Wesel and it represents

the ritual murder of a boy, Werner. It is a somewhat disgusting picture of the boy strung up by his feet and being murdered by two Jews.

Page 12 reproduces another picture taken from the same place. The caption is:

"The Embalmed Body of 'Simon of Trent' Who Was Tortured to Death by the Jews."

Page 13 has another picture—somebody else having a knife stuck into him, more blood coming out into a basin.

On Page 14 are two pictures. The one at the top is said to be the ritual murder of the boy Andreas, and the one at the bottom is the picture of a tombstone, the caption of which reads as follows:

"The Tombstone of Hilsner. This is the memorial to a Jewish ritual murderer, Leopold Hilsner. He was found guilty of two ritual murders and was condemned in two trials to death by hanging. The emperor was bribed and pardoned him. Masaryk, the friend of the Jews, liberated him from penal servitude in 1918. Even on his tombstone lying Jewry calls this twofold murderer an innocent victim."

The next page again reproduces the picture of a woman being murdered by having her throat cut in the same way; and perhaps I might refer to Page 17, which reproduces a picture of the Archbishop of Canterbury and a picture of an old Jewish man, and the caption says:

"Dr. Lang, the Archbishop of Canterbury, the Highest Dignitary of the English Church. His ally, a typical example of the Jewish race."

The last page, Page 18, reproduces a picture called, "St. Simon of Trent, Who Was Tortured to Death."

My Lord, it is my submission that that document is nothing but an incitement to the people of Germany who read it, an incitement to murder. It is filled with pictures of murder, murder alleged to be against the German people, and is an encouragement to all who read it to revenge themselves, and to revenge themselves in the same way. That document, M-10, becomes Exhibit GB-173.

DR. HANNS MARX (Counsel for Defendant Streicher): The Defendant Julius Streicher has just called my attention to the fact that he has not been given the opportunity to prove from where these pictures, which the Prosecution referred to just now, were taken. It is, in the opinion of the Defense, necessary that the origin of these pictures should be made clear to the Tribunal; otherwise one might think that these pictures had been especially borrowed for *Der Stürmer* from some obscure source. The Defendant Streicher, however, points out that these pictures came from recognized

historical sources. I should therefore like to suggest that the Prosecution make this material also available. I think that the articles of *Der Stürmer* which have been referred to must show what the sources are from which Streicher was supplied.

THE PRESIDENT: Do the articles show the sources? Do the articles themselves indicate the sources?

DR. MARX: Yes.

LT. COL. GRIFFITH-JONES: I should have said so. There wasn't any intention to misrepresent the matter, that these pictures are taken from original pictures. These were not invented by the newspaper, and in some cases the sources are shown in the caption. This is a collection of medieval pictures and frescoes dealing with this matter. In actual fact the papers show in almost all cases where they come from.

DR. MARX: Thank you.

THE PRESIDENT: You have already given us the dates of them, which indicated they were medieval.

LT. COL. GRIFFITH-JONES: That is so. My Lord, in January 1938—and it will be remembered that in 1938 the persecution of the Jews became more and more severe—in January 1938, for some reason or other, another special issue of *Der Stürmer* was published. If the Tribunal would look at Page 34 of their document book I will quote a short passage from the leading article in that paper—an article written by the defendant:

> "The supreme aim and highest task of the State is therefore to preserve People, Blood, and Race. But if this is the supreme task, any crime against this law must be punished with the supreme penalty. *Der Stürmer* takes therefore the view that there are only two punishments for the crime of polluting the race: 1. Long-term penal servitude for attempted race pollution. 2. Death for the completed crime."

And again, indeed if it is now still necessary to show the type of paper this was, if the Tribunal will turn over to the next page they will see the headlines set out for some of the articles that are contained in that edition:

> "Jewish Race Polluters at Work."
>
> "Fifteen-Year-Old Non-Jewess Violated."
>
> "A Dangerous Race Polluter. He regards German women as fair game for himself."
>
> "The Jewish Sanatorium. A Jewish institution for the cultivation of race pollution."
>
> "Rape of a Feeble-Minded Girl."

"The Jewish Butler. He steals from his Jewish masters and commits race pollution."

The copy of that paper is already in as Exhibit USA-260.

On the next page of the document book I will quote only the last two lines. It is an article appearing in *Der Stürmer;* and it is true that it is not an article actually written by the Defendant Streicher but by his then editor, Karl Holz:

"Revenge will break loose one day and will exterminate Jewry from the face of the earth."

And again on Page 37, in September 1938, *Der Stürmer* has written an article in which the last two lines read as follows:

"... a parasite, a mischief maker, an evil-doer, a disseminator of disease, who must be destroyed in the interest of mankind."

It is my submission to the Tribunal that this is no longer propaganda for the persecution of the Jews; this is propaganda for the extermination of Jews, for the murder not of one man but of millions.

The next document in the document book, on Page 38, has already been put in evidence and read to the Tribunal. It is Exhibit USA-260. It appears in the document book and was read into the transcript at Page 1438 (Volume III, Page 523). This is a short article appearing in December 1938, Number 50 of *Der Stürmer.*

I would draw the Tribunal's attention to the next document which is a picture taken from that same copy. It shows the upper part of a girl's body being strangled by the arms of a man with his hands around her neck and the shadow of the man's face is shown against the background, quite obviously with Jewish features. The caption under that picture is as follows:

"Castration for Race Polluters. Only heavy penalties will preserve our womenfolk from a tighter grip from the loathsome Jewish claws. The Jews are our misfortune."

I pause for the moment from *Der Stürmer* to a particular incident that occurred, in which the Defendant Streicher took a leading part. It will be remembered that the organized demonstrations against the Jews took place the 9th and 10th of November 1938. All this propaganda, as I say, was becoming fiercer and more ferocious. In the autumn of that year the Defendant Streicher organized the breaking up of the Nuremberg synagogues on the occasion of a meeting of press representatives in Nuremberg. That incident has in fact been referred to previously in this case and the documents in connection with it are 1724-PS, which were put in as Exhibit USA-266 and were referred to and read in the transcript at Page 1443 (Volume III, Page 526).

Gauleiter Julius Streicher was personally to set the crane in motion with which the Jewish symbols were to be torn down from the synagogue. From another document which also was put in, 2711-PS, which became USA-267, and also was read in the transcript at Page 1443 (Volume III, Page 526), I quote two lines:

> "... the Synagogue is demolished! Julius Streicher himself inaugurates the work by a speech lasting an hour and a half. By his order then—so to speak as a prelude of the demolition—the tremendous Star of David came off the cupola."

The defendant, of course, took active part in the November demonstrations of that year. I do not suggest that he was responsible for the idea of them. The evidence against him is confined only to the part that he took in his Gau in Franconia.

On Page 43 of the document book, Document M-42 is an account of the Nuremberg demonstrations as they were reported in the *Fränkische Tageszeitung,* which of course was his paper, on the 11th of November. I quote:

> "In Nuremberg and Fürth there were demonstrations by the crowd against the Jewish murderers. These lasted until the early hours of the morning. Long enough had one watched the doings of the Jews in Germany."

And then I go to the last three lines of that paragraph:

> "After midnight the excitement of the populace reached its peak and a large crowd marched to the synagogues in Nuremberg and Fürth and burned these two Jewish buildings where the murder of Germans had been preached.
>
> "The fire brigades, which had been notified immediately, saw to it that the fire was confined to the original outbreak. The windows of the Jewish shopkeepers, who still had not given up hope of selling their rubbish to the stupid Gojim, were smashed. Thanks to the disciplined behaviour of the SA-men and the police, who rushed to the scene, there was no plundering."

That becomes Exhibit GB-174.

The following document in the document book is the report of Streicher's speech on the 10th of November, the day of the demonstration. I will quote from two paragraphs on that page—or rather, starting in the middle of the first paragraph:

> "From the cradle the Jew is not taught, as we are, such texts as 'Thou shalt love thy neighbor as thyself' or 'Whosoever shall smite thee on thy right cheek, turn to him the other also.' No, he is told 'With the non-Jew you can do whatever

you like.' He is even taught that the slaughtering of a non-Jew is an act pleasing to God. For 20 years we have been writing about this in *Der Stürmer;* for 20 years we have been preaching it throughout the world, and we have made millions recognize the truth."

I go to the last paragraph:

"The Jew slaughtered in one night 75,000 Persians; when he emigrated from Egypt he killed all the first-born, that is, a whole future generation of Egyptians. What would have happened if the Jew had succeeded in driving the nations into war against us, and if we had lost the war? The Jew, protected by foreign bayonets, would have fallen on us and would have slaughtered and murdered us. Never forget what history teaches."

My Lord, after the November demonstrations irregularities occurred in the Gau of Franconia in connection with the organized Aryanization of Jewish property. Aryanization of Jewish property was, of course, regulated by the State; and under a decree it had been laid down that the proceeds, or any proceeds that there might be, from taking over Jewish properties and giving them to Aryans—all such proceeds were to go to the State. What apparently happened in Franconia was that a good deal of the proceeds never found their way as far as the State, and as a result Göring set up a commission to investigate what had taken place. We have the report of that commission, and I would refer the Tribunal to certain short passages in it. On Page 45, we see from that report exactly what had been taking place in this Defendant Streicher's Gau. I quote from the paragraph, opposite where it says "Page 13"...

DR. MARX: As proof of the irregularities which occurred in connection with the Aryanization in Nuremberg after the 9th of November, the prosecutor intends to quote a report which the Deputy Gauleiter Holz made when he was interrogated before the examining commission. I wish to protest against making use of this report. Between Streicher and the Deputy Gauleiter Holz there existed real tension if not enmity. The Deputy Gauleiter Holz was the very person responsible for the measures of Aryanization. It is not at all proved that Streicher had agreed to these measures being undertaken. It is rather to be assumed that Holz, in order to cover himself, made statements here which he himself could not answer for if he were to appear here as witness today. Therefore, in this report of Holz it is a question of statements made by a man who was deeply involved in this matter, a man who participated in these deeds, and a man who was an enemy of the Defendant Streicher. Holz incriminated Streicher because Streicher did not protect him in front of the commission and from the then Minister

President Göring. Therefore I do not think that this report should be used.

THE PRESIDENT: Have you said what you wished to say?

DR. MARX: Yes, Mr. President.

THE PRESIDENT: The Tribunal considers that this document, being an official document, is admissible under Article 21 and that the objections which you have made to it are not objections which go to its admissibility as evidence but go to its weight; and as to that, you will have an opportunity to develop your objections at a later stage when you come to speak. The Tribunal rules that the document is admissible.

LT. COL. GRIFFITH-JONES: My Lord, I read from the center of that Page 45 of the document book:

"After the November demonstrations the Deputy Gauleiter Holz took up the Jewish question. His reasons can be given here in detail on the basis of his statement of 25th March 1939:

"The 9th and 10th of November 1938. During the night of the 9th to the 10th of November and on the 10th of November 1938, events took place throughout Germany which I"—and I emphasize that that is Holz speaking—"considered to be the signal for a completely different treatment of the Jewish question in Germany. Synagogues and Jewish schools were burnt down and Jewish property was smashed both in shops and in private houses. Besides this, a large number of prominent Jews were taken to concentration camps by the police. Towards midday we discussed these events in the Gauleiter's house. All of us were of the opinion that we now faced a completely new state of affairs on the Jewish question. By the great action against the Jews carried out in the night and morning of the 10th of November all precedents and all laws on this subject had been made meaningless. We were of the opinion (particularly I myself) that we should now act on our own initiative in this respect. I proposed to the Gauleiter that in view of the great existing lack of housing the best thing would be to put the Jews into a kind of internment camp. Then the houses would become free at once; and the housing shortage would be relieved, at least in part. Besides that, we should have the Jews under control and supervision! I added 'The same thing happened to our prisoners of war and war internees.'

"The Gauleiter said that this suggestion was for the time being unfeasible. Thereupon I made a new proposal to him. I said to him that I considered it unthinkable that, after the Jews had had their property smashed, they should still be

able to own houses and land. I proposed that these houses and this land ought to be taken away from them, and declared myself ready to carry through such an action. I declared that by the Aryanization of Jewish land and houses a large sum could accrue to the Gau out of the proceeds. I named some millions of marks. I stated that, in my opinion, this Aryanization could be carried out as legally as the Aryanization of shops. The Gauleiter's answer was something to this effect: 'If you think you can carry this out, do so. The sum gained will then be used to build a Gau school.' "

I go down now to where it says "Page 18":

"The Aryanization was accomplished by the alienation of properties, the surrender of claims, especially mortgage claims, and reductions in buying price.

"The payment allowed the Jews was basically 10 percent of the nominal value or nominal sum of the claim. As a justification for these low prices, Holz claimed, at the Berlin meeting of the 6th of February 1939, that the Jews had mostly bought their property during the inflation period for less than a tenth of its value. As has been shown by investigating a large number of individual cases selected at random, this claim is not true."

My Lord, I would turn to Page 48 of the document book, which appears in the second part of this report, and that part of the report is really the part containing the findings of the commission. I quote from the top of the page, Page 48 of the document book . . .

THE PRESIDENT: Is this still part of the report?

LT. COL. GRIFFITH-JONES: This is still part of the report. It is, in fact, as I say, the findings of the commission.

"Gauleiter Streicher likes to beat people with a riding whip but only if he is in the company of several persons assisting him. In most cases the beatings are carried out with sadistic brutality.

"The best known case is that of Steinruck, whom he beat in the prison cell until the blood came, together with Deputy Gauleiter Holz and SA Oberführer König. After returning from this scene to the Deutscher Hof he said, 'Now I am relieved. I needed that again!' Later he also stated several times that he needed another Steinruck case in order to 'relieve' himself.

"In August 1938 he beat the editor Burker at the Gauhaus together with District Office Leader Schöller and his adjutant, König."

To show the authority and power that he held in his Gau, I refer to the last paragraph on that page:

> "According to reports of reliable witnesses, Gauleiter Streicher is in the habit of pointing out on the most varied occasions that he alone gives orders in the district of Franconia. For instance, at a meeting in the Colosseum in Nuremberg in 1935 he said that nobody could remove him from office. In a meeting at Herkules Hall, where he described how he had beaten Professor Steinruck, he emphasized that he would not let himself be beaten by anybody, not even by an Adolf Hitler....
>
> "For, this also must be stated here, in Franconia the Gau acts first and then orders the absolutely powerless authorities to approve."

My Lord, both of those volumes of that report, Document 1757-PS, will become Exhibit GB-175.

THE PRESIDENT: The Tribunal isn't altogether satisfied that that has any bearing on the case against Streicher.

LT. COL. GRIFFITH-JONES: My Lord, it is the object of that document to show the kind of treatment and persecution which the Jews were receiving in the district or Gau over which this defendant ruled and, secondly, to show the absolute authority with which this defendant acted in his district. That is the purpose of that document.

As a result either of that investigation or of some other matter the defendant was relieved of his position as Gauleiter in February 1940, but he did not cease from his propaganda or from the control of his newspaper. I would only quote one further short extract from *Der Stürmer*. An article written by him on the 4th of November 1943, which appears in the document book on Page 53, is Document 1965-PS and becomes Exhibit GB-176; and it is an extract of importance:

> "It is actually true that the Jews have so to speak disappeared from Europe and that the Jewish 'Reservoir of the East,' from which the Jewish pestilence has for centuries beset the peoples of Europe, has ceased to exist. But the Führer of the German people at the beginning of the war prophesied what has now come to pass."

My Lord, that article was signed by Streicher, and it is my submission that it shows that he had knowledge of what was going on in the East, of which this Court has had such evidence. That was written November 1943. In April '43, the Tribunal will remember, the Warsaw ghetto was destroyed. Between April 1942 and April 1944, 1,700,000-odd Jews were killed in Auschwitz and Dachau

—I quote now from the transcript—and throughout the whole of that period millions of Jews were to die. It is my submission that that article appearing on the 4th of November and signed by him shows that he knew what was happening, perhaps not the details, but that he knew that the Jews were being exterminated.

I leave *Der Stürmer* and I would draw the attention of the Tribunal quite shortly to a matter which is perhaps as evil as any other aspect of this man's activity, and that is the particular attention that he paid to the instruction—if you can call it that—or the perversion of the children and the youth of Germany. He was not content with inciting the German population. He seized the children as early as he could at their schools, and he started to poison their minds at the earliest possible date. Already in some of the extracts to which I have referred, the Tribunal will remember that there are mentions of children and the need for teaching them anti-Semitism. I refer now to Page 54 of the document book, and I would quote four or five lines from the last paragraph, starting in the middle of the last paragraph. It is a report of a speech by Streicher as early as June 1925, when he says:

> "I repeat, we demand the transformation of the school into an ethno-German institution of education. If German children are taught by German teachers, then we shall have laid the foundations for the ethno-German school. This ethno-German school must teach racial doctrine."

I now go to the last line of the first paragraph on the following page:

> "We demand, therefore, the introduction of racial doctrine into the school."

That is in a copy of *Der Stürmer* which has already been put in. It is Exhibit GB-165 (Document M-30).

The following Document, M-43, is an extract from the *Fränkische Tageszeitung* of the 19th of March 1934, when he addressed the pupils at a girls' school at Preisslerstrasse after their finishing their vocational course. He was continually holding children's meetings and attending children's schools. I quote the third paragraph:

> "Then Julius Streicher spoke about his life and told them about a girl who had at one time been a pupil of his and who had fallen a victim to a Jew and was finished for the rest of her life."

I need not read the rest. It is all in the same tone. That becomes Exhibit GB-177.

Every summer they celebrated in Nuremberg what they called their solstice celebration, some pagan rite where the youth of Nuremberg rallied—organized or at least encouraged by the Defendant Streicher.

On Page 58 of the document book is a report taken from his paper, *Fränkische Tageszeitung,* of his speech to the Hitler Youth on what they called the "Holy Mountain" near Nuremberg, on the 22d of June 1935.

> "Boys and girls, look back a little more than 10 years ago. A great war—the World War—had raged over the peoples of the earth and had left in the end a heap of ruins. Only one people remained victorious in that dreadful war, a people of whom Christ said that its father is the Devil. That people had ruined the German Nation in body and soul. At that time Adolf Hitler, an unknown man, arose from among the people and became a voice which proclaimed a holy war and struggle. He cried to the people to take courage again and to rise and join in liberating the German people from the Devil, so that mankind might again be free from that race which has roamed the globe for centuries and millennia, marked with the brand of Cain.
>
> "Boys and girls, even if it is said that the Jews were once the chosen people do not believe it, but believe us when we say that the Jews are not a chosen people. Because it cannot be that a chosen people should act among the peoples as the Jews do today."

And so on, with similar kind of propaganda. That Document, M-1, will be Exhibit GB-178.

The next Document, M-44, from which I will not read now, becomes Exhibit GB-179. The Tribunal will see that it was a report of Streicher's address to 2,000 children at Nuremberg at Christmas-time 1936. Underlined it says:

> "'*Do you know who the Devil is?*' he asked his breathlessly listening audience. 'The Jew, the Jew,' resounded from a thousand children's voices."

But he wasn't content only with writing and talking. He actually issued a book for teachers, a book which he published from his *Der Stürmer* offices, called *The Jewish Question and School Instruction.*

I have not had the whole of that book translated. It is addressed to school teachers. It is intended for their benefit, and it emphasizes the necessity of anti-Semitic teaching in schools, and it suggests ways in which the subject can be introduced and handled.

On Page 60 of the document book, M-46, the Tribunal will see a few extracts which have been taken from that book. The preface part of it is as follows:

> "The National Socialist State has brought fundamental changes into all spheres of life of the German people.

"It has also presented the German teacher with new duties. The National Socialist State demands that its teachers instruct German children on racial questions. As far as the German people is concerned the racial question is a Jewish question. Those who want to teach the child about the Jew must themselves have a thorough knowledge of the subject."

I will quote from the paragraph opposite "Page 5" in the margin. The whole of the rest of the extracts are really suggestions for teachers as to how to introduce the Jewish subject into their teaching, and at Page 5 of the introduction:

"Racial and Jewish questions are the fundamental problems of the National Socialist ideology. The solution of these problems will secure the existence of National Socialism and with this the existence of our nation for all time. The enormous significance of the racial question is recognized almost without exception today by all the German people. In order to come to this realization, our people had to travel through a long road of suffering."

DR. MARX: I should like to point out the following: The prosecutor omitted in his presentation to state that the book he referred to was not written by the Defendant Streicher but by the school inspector Fink. If the prosecutor had read the next sentence, the Tribunal would have known about this fact. My client has called my attention to this point. I noticed it myself also because the next sentence reads as follows:

"Schulrat Fritz Fink desires to help German teachers on the road to information and knowledge with his book: *The Jewish Question in the Schools.*"

There can thus be no doubt that this School Inspector Fink is the author of the book. It is, after all, an essential thing to know that Fink and not Streicher was the author of this book.

THE PRESIDENT: Have you finished what you wish to say?

DR. MARX: Yes; that is what I wanted to say.

THE PRESIDENT: I would point out to you that although the book does appear to have been written by Fritz Fink, which is stated in the paragraph at the top, it has a preface by Streicher, so we may presume that Streicher authorized it; and it was published and printed by *Der Stürmer.*

DR. MARX: That is correct. I just wanted to point out to the Tribunal that it did not appear to be understood, that just that particular sentence was not read. One might have thought that an original work of Streicher's was concerned, in which case the question of whether Streicher agreed with that work would appear of minor importance.

THE PRESIDENT: But you see, Dr. Marx, counsel was reading actually from the preface by Streicher. The last passage that he read, or almost the last, was the preface by Streicher. The last passage I have got marked is the passage on Page 60, which is headed "Preface" and is signed by Julius Streicher, which says in terms that the book was written by School Inspector Fritz Fink.

Let us not take any further time about it.

LT. COL. GRIFFITH-JONES: I think I have reached . . .

THE PRESIDENT: Will you read the last words of that preface on Page 60 there: "Those who take to heart . . ."?

LT. COL. GRIFFITH-JONES: If Your Lordship pleases, I read towards the end of the paragraph—the first paragraph of the preface:

> "Those who take to heart all that has been written with such feeling by Fritz Fink, who for many years has been greatly concerned about the German people, will be grateful to the creator of this outwardly insignificant publication."—Then it is signed—"Julius Streicher, City of the Reich Party rallies, Nuremberg, in the year 1937."

I omitted that last part only in the interest of time.

THE PRESIDENT: Yes.

LT. COL. GRIFFITH-JONES: That book is Exhibit GB-180. I would just read the last two lines, which I was not able to read before Dr. Marx interposed. The last three lines of the paragraph under "Introduction":

> "No one should be allowed to grow up in the midst of our people without this knowledge of the frightfulness and dangerousness of the Jew."

I will not occupy the time of the Tribunal by reading further from that book. The nature of the book I hope is clear. I would only refer to the last three lines on the next page in the document book, taking another extract from it:

> "One who has reached this stage of understanding will inevitably remain an enemy of the Jews all his life and will instill this hatred into his own children."

Der Stürmer also published some children's books, although I make it quite clear that I am not alleging that the defendant himself wrote the books. But they were published from his publishing business; and they are, of course, on the same line as everything else that was published and issued from that business.

The first of them to which I would call attention was entitled in English—or the English translation is—as follows: Don't Trust the Fox in the Green Meadow Nor the Jew on His Oath. It is a picture

book for children. There are pictures, all of them offensive pictures depicting Jews, of which a variety of selections appears in the Tribunal's book. And opposite each picture there is a little story.

On Page 62 of the document book the Tribunal will see the kind of thing which appears opposite each picture. Opposite the picture in the Tribunal's document book appears the following:

"Jesus Christ says, 'The Jew is a murderer through and through.' And when Christ had to die the Lord didn't know of any other people that would torture him to death, so he chose the Jews. That is why the Jews pride themselves on being the chosen people."

The writing opposite the first picture, which depicts a very unpleasant looking Jewish butcher cutting up meat, is as follows:

"The Jewish butcher: He sells half-refuse instead of meat. A piece of meat lies on the floor, the cat claws another. This doesn't worry the Jewish butcher since the meat increases in weight. Besides, one mustn't forget, he won't have to eat it himself."

Again in the interest of time, it is not worth quoting the contents of that book any further. The Tribunal can see the type of book it is, the type of teaching it was instilling into the minds of the children. The pictures speak for themselves.

The second picture is a rather beastly picture of a girl being led away by a Jew. On the next page we see the defendant smiling benignly at a children's party, greeting the little children. The next picture depicts copies of *Der Stürmer* posted on a wall with children looking at them.

The next picture perhaps requires a little explanation. It is a picture of Jewish children being taken away from an Aryan school, led away by an unpleasant looking father; and all the Aryan children shouting and dancing and enjoying the fun very much.

That book, Document M-32, becomes Exhibit GB-181.

THE PRESIDENT: You won't be able, will you, to finish in a short time? Perhaps we'd better adjourn now.

LT. COL. GRIFFITH-JONES: I have about another 20 minutes.

THE PRESIDENT: Oh, yes; we will adjourn now.

[A recess was taken.]

LT. COL. GRIFFITH-JONES: My Lord, I had finished describing that one children's book. There is a similar book called *The Poisonous Fungus,* which has, in fact, been put in evidence already as Exhibit USA-257, but it was not read to the Tribunal; and I would like to read one of the short stories from that book because

it shows, perhaps more strikingly, I think, than any other extract to which we have referred, the revolting way in which this man poisoned the minds of his listeners and readers.

It is a book of pictures again with short stories, and Page 69 of the document book shows one of the pictures, a girl sitting in a Jewish doctor's waiting room.

My Lord, it is not a very pleasant story, but he is not a very pleasant man; and it is only by reading these things that it becomes possible to believe the kind of education that the German children have been receiving during these years, led by this man.

I quote from the story:

"Inge"—that is the girl—"Inge sits in the reception room of the Jew doctor. She has to wait a long time. She looks through the journals which are on the table. But she is much too nervous to read even a few sentences. Again and again she remembers the talk with her mother. And again and again her mind reflects on the warnings of her leader of the League of German Girls. A German must not consult a Jew doctor. And particularly not a German girl. Many a girl that went to a Jew doctor to be cured met with disease and disgrace.

"When Inge had entered the waiting room, she experienced an extraordinary incident. From the doctor's consulting room she could hear the sound of crying. She heard the voice of a young girl, 'Doctor, doctor, leave me alone.'

"Then she heard the scornful laughter of a man. And then, all of a sudden it became absolutely silent. Inge had listened breathlessly.

" 'What can be the meaning of all this?' she asked herself, and her heart was pounding. And again she thought of the warning of her leader in the League of German Girls.

"Inge had already been waiting for an hour. Again she takes the journals in an endeavor to read. Then the door opens. Inge looks up. The Jew appears. She screams. In terror she drops the paper. Horrified she jumps up. Her eyes stare into the face of the Jewish doctor. And this face is the face of the Devil. In the middle of this devil's face is a huge crooked nose. Behind the spectacles gleam two criminal eyes. Around the thick lips plays a grin, a grin that means, 'Now I have you at last, you little German girl!'

"And then the Jew approaches her. His fat fingers snatch at her. But now Inge has got hold of herself. Before the Jew can grab hold of her, she smacks the fat face of the Jew doctor with her hand. One jump to the door. Breathlessly

Inge runs down the stairs. Breathlessly she escapes from the Jew house."

Comment is almost unnecessary on a story like that, read by children of the age of those who are going to read the books you have seen.

Another picture which I have included in the book is a picture, of course of the defendant, and the script opposite that picture, which appears on Page 70 of the document book, includes the words—and I quote from the last but one paragraph: "Without a solution of the Jewish question there will be no salvation for mankind."

The page itself contains an account of how some boys attended one of his speeches:

"That is what he shouted to us. We all understood him. And when, at the end, he shouted, 'Sieg-Heil for the Führer,' we all acclaimed him with tremendous enthusiasm. Streicher spoke for two hours that time. To us it seemed to have been but a few minutes."

One can begin to see the effect that all this was having from the columns of *Der Stürmer* itself. In April 1936 there appears only one letter—many others appear in other copies from children of all ages—I quote the third paragraph of this letter, the letter signed by the boys and girls of the National Socialist Youth Hostel at Gross-Möllem:

"Today we saw a play on how the Devil persuades the Jew to shoot a conscientious National Socialist. In the course of the play the Jew did it, too. We all heard the shot. We would have all liked to jump up and arrest the Jew. But then the policeman came and after a short struggle took the Jew along. You can imagine, dear *Stürmer,* that we heartily cheered the policeman. In the whole play not one name was mentioned, but we all knew that this play represented the murder by the Jew Frankfurter. We were very sad when we went to bed that night. None felt like talking to the others. This play made it clear to us how the Jew sets to work."

My Lord, that book is already in evidence as I have stated. It is Exhibit GB-170 (Document M-25).

To conclude, I would draw the attention of the Tribunal again only to his authority as a Gauleiter. It appears in the *Organization Book of the NSDAP* for 1938—which is already in as Exhibit USA-430—in the description of the duties and authority of Gauleiter: The Gauleiter bears over-all responsibility to the Führer for the sector of sovereignty entrusted to him. The rights, duties, and jurisdiction of the Gauleiter result primarily from the mission assigned by the Führer and, apart from that, from detailed direction.

His association with the Führer and with the other defendants—or some of the other defendants—can be seen from the newspapers. On the occasion of his 50th birthday Hitler paid a visit to Nuremberg to congratulate him. That was on the 13th of February 1935. The account of that meeting is published in the *Völkischer Beobachter* of that date, and I quote as follows:

"Adolf Hitler spoke to his old comrade in arms and the latter's followers in words which went straight to their hearts. By way of introduction he remarked that it was a special pleasure for him to spend, on this day of honor to Julius Streicher, a short while in Nuremberg, the town of battle-steeled National Socialist solidarity, within the circle of the veteran standard-bearers of the National Socialist idea.

"Just as they all, during the years of misery, had unshakeably believed in the victory of the Movement, so his friend and comrade in arms, Streicher, had stood faithfully at his side at all times. It had been this unshakeable belief that had moved mountains.

"For Streicher it would surely be an inspiring thought that this 50th anniversary meant to him not only the turn of a half century, but also of a thousand years of German history. He had in Streicher a comrade of whom he could say that here in Nuremberg was a man who would never waver for a single second and who would unflinchingly stand behind him in every situation."

That is Document M-8 and becomes Exhibit GB-182.

The next document (M-22) is a letter from Himmler published in *Der Stürmer* of April 1937. That edition is already Exhibit USA-258.

"When in future years the history of the reawakening of the German people is written and the next generation is already unable to understand that the German people were once friendly to the Jews, it will be recognized that Julius Streicher and his weekly paper *Der Stürmer* contributed a great deal toward the enlightenment regarding the enemy of mankind."—Signed—"The Reichsführer SS, H. Himmler."

That is Exhibit USA-258. A number of these documents are already in evidence in the bound volumes.

Lastly, we have a letter from Baldur von Schirach, the Reich Youth Leader, published in *Der Stürmer* of March 1938 (Document M-45, Exhibit USA-260):

"It is the historical merit of *Der Stürmer* to have enlightened the broad masses of our people in a popular way as to

the Jewish world danger. *Der Stürmer* is right in not carrying out its task in a purely aesthetic manner, for Jewry has shown no regard for the German people. We have, therefore, no reason for being considerate toward our worst enemy. What we fail to do today, the youth of tomorrow will have to suffer for bitterly."

My Lord, it may be that this defendant is less directly involved in the physical commission of the crimes against Jews, of which this Tribunal have heard, than some of his co-conspirators. The submission of the Prosecution is that his crime is no less the worse for that reason. No government in the world, before the Nazis came to power, could have embarked upon and put into effect a policy of mass extermination in the way in which they did, without having a people who would back them and support them and without having a large number of people, men and women, who were prepared to put their hands to their bloody murder. And not even, perhaps, the German people of previous generations would have lent themselves to the crimes about which this Tribunal has heard, the killing of millions and millions of men and women.

It was to the task of educating the people, of producing murderers, educating and poisoning them with hate, that Streicher set himself; and for 25 years he has continued unrelentingly the education—if you can call it so—or the perversion of the people and of the youth of Germany. And he has gone on and on as he saw the results of his work bearing fruit.

In the early days he was preaching persecution. As persecutions took place he preached extermination and annihilation; and, as we have seen in the ghettos of the East, as millions of Jews were being exterminated and annihilated, he cried out for more and more.

That is the crime that he has committed. It is the submission of the Prosecution that he made these things possible—made these crimes possible—which could never have happened had it not been for him and for those like him. He led the propaganda and the education of the German people in those ways. Without him the Kaltenbrunners, the Himmlers, the General Stroops would have had nobody to carry out their orders. And, as we have seen, he has concentrated upon the youth and the childhood of Germany. In its extent his crime is probably greater and more far-reaching than that of any of the other defendants. The misery that they caused finished with their incarceration. The effects of this man's crime, of the poison that he has injected into the minds of millions and millions of young boys and girls and young men and women lives on. He leaves behind him a legacy of almost a whole people poisoned with hate, sadism, and murder, and perverted by him.

That German people remains a problem and perhaps a menace to the rest of civilization for generations to come.

My Lord, I submit that the Prosecution's case against this man as set out in the Indictment is proved.

My Lord, Lieutenant Brady Bryson, of the United States Delegation, will present to the Court the case against Schacht.

LIEUTENANT BRADY O. BRYSON (Assistant Trial Counsel for the United States): May it please the Tribunal, a document book has been prepared and filed and the appropriate number of copies has been delivered to the defendants.

We ask the Tribunal's permission to file within the next few days a trial brief which now is in the process of preparation.

Our proof against the Defendant Schacht is confined to planning and preparation of aggressive war.

THE PRESIDENT: What was it you said about the trial brief?

LT. BRYSON: We ask permission to file a trial brief within the next few days, as our brief is not yet ready.

THE PRESIDENT: I see.

LT. BRYSON: Our proof against the Defendant Schacht is limited to planning and preparation for aggressive war and to membership in a conspiracy for aggressive war.

The extent of Schacht's criminal responsibility as a matter of law, under the Charter of the Tribunal, will be developed in our brief. Only a few of our 50-odd documents have been previously submitted in evidence. We have taken special pains to avoid repetition and cumulative proof; but for the sake of continuity we would like, in several instances, simply to draw the Tribunal's attention to evidence previously received, with an appropriate reference to the transcript of the Record.

Before commencing our proof, we wish to state our understanding that the Defendant Schacht's control over the German economy was on the wane after November 1937, and that by the time of the aggression on Poland his official status had been reduced to that of Minister without Portfolio and personal adviser to Hitler. We know too that he is sometimes credited with opposition to certain of the more radical elements of the Nazi Party; and I further understand that at the time of capture by United States forces he was under German detention in a prison camp, having been arrested by the Gestapo in July 1944.

Be this as it may, our proof will show that at least up until the end of 1937 Schacht was the dominant figure in the rearming of Germany and in the economic planning and preparation for war, that without his work the Nazis would not have been able to wring from

their depressed economy the tremendous material requirements of armed aggression, and that Schacht contributed his efforts with full knowledge of the aggressive purposes which he was serving.

The details of this proof will be presented in four parts:

First, we will very briefly show that Schacht accepted the Nazi philosophy prior to 1933 and supported Hitler's rise to power.

Second, proof of the contribution of Schacht to German rearmament and preparation for war will be submitted. This evidence will also be brief, since the facts in this respect are well known and have already been touched upon by Mr. Dodd in his presentation of the case on economic preparation for war.

Third, we will show that Schacht assisted the Nazi conspiracy purposely and willingly with knowledge of, and sympathy for, its illegal ends.

And last, we will prove that Schacht's loss of power in the German Government did not in any sense imply disagreement with the policy of aggressive war.

We turn now to our proof that Schacht helped Hitler to power.

Schacht met Göring for the first time in December 1930, and Hitler early in January 1931 at Göring's house. His impression of Hitler was favorable. I offer in evidence Exhibit USA-615 (Document 3725-PS), consisting of an excerpt from a pre-trial interrogation of Schacht under date of 20 July 1945, and quote two questions and answers related to this meeting, near the middle of the first page of the interrogation.

THE PRESIDENT: Are you going to give us the Exhibit number? You haven't given us the other number?

LT. BRYSON: This is an interrogation, Sir, and it will not have two.

THE PRESIDENT: Have you got a number for it?

LT. BRYSON: You will find it in your document book in the back, labeled "Schacht Interrogation of 20 July 1945." I quote from the middle of the first page:

"Q: 'What did he'"—that is, Hitler—"'say?'

"A: 'Oh, ideas he expressed before, but it was full of will and spirit.'"

And near the bottom of the page:

"Q: 'What was your impression at the end of that evening?'

"A: 'I thought that Hitler was a man with whom one could co-operate.'"

After this meeting Schacht allied himself with Hitler; and at a crucial political moment in November 1932, he lent the prestige of

his name, which was widely known in banking, financial, and business circles throughout the world, to Hitler's cause. I offer in evidence Exhibit USA-616 (Document 3729-PS) consisting of excerpts from a pre-trial interrogation of Schacht on 17 October 1945. I wish to quote, beginning at the top of Page 36 of this interrogation. This is the interrogation of 17 October 1945, at Page 36. I may say that when I refer to the page numbers, I speak of the page of the document book:

"Q: 'Yes, and at that time'"—referring to January 1931—"'you became a supporter, I take it, of . . .'

"A: 'In the course . . .'

"Q: 'Of Hitler's coming to power?'

"A: 'Especially in the course of the years 1931 and 1932.'"

And I quote further from the lower half of Page 37 of the same interrogation:

"Q: 'But what I mean—to make it very brief—did you lend the prestige of your name to help Hitler come to power?'

"A: 'I have publicly stated that I expected Hitler to come to power; for the first time, if I remember, in November '32.'

"Q: 'And you know, or perhaps you don't, that Goebbels in his diary records with great affection . . .'

"A: 'Yes.'

"Q: '. . . the help that you gave him at the time?'

"A: 'Yes, I know that.'

"Q: 'November 1932?'

"A: 'From the Kaiserhof to the Chancellery and back.'

"Q: 'That's right. You have read that?'

"A: 'Yes.'

"Q: 'And you don't deny that Goebbels was right?'

"A: 'I think his impression was that that was correct at that time.'"

I now refer the Tribunal to this statement of Goebbels, set forth in 2409(a)-PS. The entire diary of Goebbels is in evidence as Exhibit Number USA-262. The entry I wish to read, which appears in 2409(a)-PS, was made on 21 November 1932:

"In a conversation with Dr. Schacht I assured myself that he absolutely shares our point of view. He is one of the few who stand immovable behind the Führer."

It is believed that Schacht joined the Party only in the sense that he allied himself with the cause. Dr. Franz Reuter, whose biography of Schacht was officially published in Germany in 1937, has stated that Schacht refrained from formal membership in order to

be of greater assistance to the Party. I offer in evidence Document Number EC-460, Exhibit Number USA-617, consisting of an excerpt from Reuter's biography, and I quote the last sentence of the excerpt:

> "By not doing so, he was able eventually to help more toward the final victory than if he had become an enrolled Party member."

It was Schacht who organized the financial means for the decisive March 1933 election, at a meeting of Hitler with a group of German industrialists in Berlin. Schacht acted as the sponsor or host of this meeting, and a campaign fund of several million marks was collected. Without reading therefrom, I offer in evidence Document Number EC-439, Exhibit Number USA-618, an affidavit of Von Schnitzler under date of 10 November 1945, and refer the Tribunal to the transcript for 23 November, Pages 282-283 (Volume II, Pages 223, 224), where the text of the affidavit already appears in the Record.

Further evidence on this point is also contained in the excerpt from the interrogation of Schacht on 20 July 1945, from which I read a part a moment ago. Schacht lent his support to Hitler not only because he was an opportunist, but also because he shared Hitler's ideological principles. Apart from the entry in Goebbels' diary, this may be seen from Schacht's own letter to Hitler, under date of 29 August 1932, pledging continued support to Hitler after the latter's poor showing in the July 1932 elections. I offer this letter in evidence as Document Number EC-457, Exhibit Number USA-619, and quote from the middle of the first paragraph and further from the next to the last paragraph:

> "But what you could perhaps do with in these days is a kind word. Your movement is carried internally by so strong a truth and necessity that victory in one form or another cannot elude you for long."

And further down—and keep in mind that neither Hitler nor Schacht was then in the German Government—Schacht says:

> "Wherever my work may take me in the near future, even if you should see me one day behind stone walls, you can always count on me as your reliable assistant."

THE PRESIDENT: What do those words mean at the top: "The President of the Reichsbank in Retirement"? Are they on the letter?

LT. BRYSON: Yes, they are, Sir. Dr. Schacht had previously been a president of the Reichsbank. At this time he was in retirement. You will remember, this is prior to Hitler's accession to power.

THE PRESIDENT: Yes, of course.

LT. BRYSON: And then Hitler reinstated Dr. Schacht as President of the Reichsbank after the Nazis had taken over.

THE PRESIDENT: And he put that at the top of his letter, did he?

LT. BRYSON: That I cannot say.

I will also point out that Schacht signed this letter, "With a vigorous Heil."

We turn now to the second part of our proof, relating to Schacht's contribution to preparation for war.

The detailed chronology of Schacht's official career in the Nazi Government, as set forth in Document 3021-PS, has already been submitted in evidence as Exhibit Number USA-11. However, it may be helpful at the outset to remind the Tribunal that Schacht was recalled to the Presidency of the Reichsbank by Hitler on 17 March 1933, which office he continuously held until 20 January 1939; that he was Acting Minister and then Minister of Economics from August 1934 until November 1937; and that he was appointed Plenipotentiary General for War Economy in May 1935. He resigned as Minister of Economics and Plenipotentiary General for War Economy in November 1937, when he accepted appointment as Minister without Portfolio, which post he held until January 1943. His position as virtual economic dictator of Germany in the 4 crucial years from early 1933 to the end of 1936 is practically a matter of common knowledge.

Schacht was the guiding genius behind the Nazi expansion of the German credit system for rearmament purposes. From the outset he recognized that the plan for the German military supremacy required huge quantities of public credit. To that end a series of measures was adopted which subverted all credit institutions in Germany to the over-all aim of supplying funds for the military machine. I will briefly mention some of these measures.

By Cabinet decree of 27 October 1933 the statutory reserve of 40 percent in gold and foreign exchange required against circulating Reichsbank notes was permanently abandoned. By the Credit Act of 1934 the Government assumed jurisdiction of all credit institutions, and control over the entire banking system was centralized in Schacht as Chairman of the Supervisory Board for the Credit System and President of the Reichsbank. This act not only enabled Schacht to control the quantity of credit but also its use. On 29 March 1934 a system of forced corporate lending to the Reich was imposed on German business. And on 19 February 1935 the Treasury was authorized to borrow funds in any amounts approved by the Reich Chancellor, that is, by Hitler.

On these points I ask the Tribunal to take judicial notice of the *Reichsgesetzblatt* 1933, Part II, Page 827; *Reichsgesetzblatt* 1934,

Part I, Page 1203; *Reichsgesetzblatt* 1934, Part I, Page 295; and *Reichsgesetzblatt* 1935, Part I, Page 198.

THE PRESIDENT: Are they found here in the document book?

LT. BRYSON: They're not in the document book, Sir.

I asked only that judicial notice be taken of them as published laws of Germany.

These measures enabled Schacht to embark upon what he himself has termed a "daring credit policy," including the secret financing of a vast amount of armaments through the so-called 'mefo' bill, a description of which appears in the transcript for 23 November at Page 295 (Volume II, Page 232). I offer in evidence Document Number EC-436, Exhibit Number USA-620, consisting of a statement, dated 2 November 1945, by Emil Puhl, a director of the Reichsbank during Schacht's presidency, and quote the second paragraph thereof as follows:

"In the early part of 1935 the need for financing an accelerated rearmament program arose. Dr. Schacht, President of the Reichsbank, after considering various techniques of financing, proposed the use of mefo bills to provide a substantial portion of the funds needed for the rearmament program. This method had as one of its primary advantages the fact that secrecy would be possible during the first years of the rearmament program; and figures indicating the extent of rearmament, that would have become public through the use of other methods, could be kept secret through the use of mefo bills."

The extent of the credit expansion and the importance of mefo financing may be seen from Document Number EC-419, which I now offer as Exhibit Number USA-621 and which consists of a letter from Finance Minister Von Krosigk to Hitler, under date of 1 September 1938. I quote the following figures from the middle of the first page:

"The Reich debt accumulated as follows:

"As of 31 December 1932: Funded debt, 10,400 millions of Reichsmark; short-term debt, 2,100 millions of Reichsmark; debt not published in the budget (trade and mefo bills of exchange), 0.

"As of 30 June 1938: Funded debt, 19,000 million Reichsmark; short-term debt, 3,500 million Reichsmark; and debt not published in the budget (trade and mefo bills of exchange), 13,300 million Reichsmark.

"Total: as of 31 December 1932, 12,500 million Reichsmark; as of 30 June 1938, 35,800 million Reichsmark."

The Reich debt thus tripled . . .

THE PRESIDENT: Would you read the next section, beginning with the words "Provisions were made to cover . . ."?

LT. BRYSON: "Provisions were made to cover the armament expenditures for the year 1938 (the same amount as in 1937) as follows:

> "Five thousand millions from the budget, that is, taxes; 4,000 millions from loans; 2,000 millions from 6-month treasury notes, which means postponement of payment until 1939; total: 11,000 millions."

The Reich debt thus tripled under Schacht's management. More than one-third of the total was financed secretly and through the instrumentality of the Reichsbank by mefo and trade bills. It is clear that this amount of financing outside the normal public issues represented armament debt. I read further from Document EC-436, at the beginning of the last long paragraph:

> "These mefo bills were used exclusively for financing rearmament; and when in March 1938 a new finance program discontinuing the use of mefo bills was announced by Dr. Schacht, there was a total volume outstanding of 12,000 million marks of mefo bills which had been issued to finance rearmament."

The character of Schacht's credit policy and the fact that it was ruthlessly dedicated to the creation of armaments plainly appear from his own speech delivered on 29 November 1938.

I offer it in evidence as Document Number EC-611, Exhibit Number USA-622; and I quote from Page 6 at the beginning of the last paragraph:

> "It is possible that no bank of issue in peacetime carried on such a daring credit policy as the Reichsbank since the seizure of power by National Socialism. With the aid of this credit policy, however, Germany created an armament second to none; and this armament in turn made possible the results of our policy."

Beyond the field of finance Schacht assumed totalitarian control over the German economy generally in order to marshal it behind the rearmament program.

He acquired great power over industry as a result of the Nazi reorganization of German industry along military lines and in accordance with the so-called Leadership Principle. On this point I refer the Tribunal to the transcript for 23 November at Pages 287-290 (Volume II, Pages 227-228); and to the *Reichsgesetzblatt* 1934, Part I, Page 1194, of which the Tribunal is asked to take judicial notice.

Schacht also exercised broad powers as a member of the Reich Defense Council, which was secretly established on 4 April 1933 and

the function of which was preparation for war. The Tribunal is referred to the transcript for 23 November, Page 290 (Volume II, Pages 228-229). I also offer in evidence as Document Number EC-128, Exhibit Number USA-623, a report under date of 30 September 1934, showing the functions of the Ministry of Economics in this respect. The report reveals concentration upon all the familiar wartime economic problems, including stockpiling, production of scarce goods, removal of industry to secure areas, fuel and power supply for war production, machine tools, control of wartime priorities, rationing, price control, civilian supply, and so on. I wish to read into the Record merely an excerpt showing the jurisdiction of the Ministry of Economics, beginning near the top of Page 2 of Document Number EC-128:

> "With the establishment of the Reich Defense Council and its permanent committee the Reich Ministry of Economics has been given the task of making economic preparation for war. There should really be no need to explain the tremendous importance of this task. Everyone remembers vividly how terribly the lack of any economic preparation for war hit us during the World War."

Finally, in 1934, Schacht acquired sweeping powers under legislation which authorized him, as Minister of Economics, to take any measure deemed necessary for the development of the German economy. In this connection reference is made to the *Reichsgesetzblatt,* 1934, Part I, Page 565, of which the Tribunal is asked to take judicial notice.

The so-called "New Plan" devised by Schacht was announced in the fall of 1934 shortly after he became Minister of Economics. In this connection the Tribunal is referred to the *Reichsgesetzblatt,* 1934, Part I, Page 816 and the *Reichsgesetzblatt,* 1935, Part I, Page 105, with the request that judicial notice be taken thereof. The New Plan was Schacht's basic program for obtaining the necessary foreign-produced raw materials and foreign exchange required to sustain the rearmament program.

With respect to the details of the New Plan, I offer in evidence Document Number EC-437, Exhibit Number USA-624, consisting of an affidavit of Emil Puhl, dated 7 November 1945. The entire text is pertinent. Therefore, permission is requested to submit the affidavit without reading therefrom, on condition that French and Russian translations be prepared and filed.

THE PRESIDENT: And German ones supplied, too.

LT. BRYSON: We will supply copies. I wish to say that the original is in English, but the affidavit has already been translated into German.

THE PRESIDENT: Yes.

LT. BRYSON: This affidavit by a co-worker of Schacht describes in detail the many ingenious and often ruthless devices he used, including negotiating "stand-still" agreements, forcing payment in Reichsmark of interest and amortization on debts incurred in foreign currency, using scrip and funding bonds for the same purpose, suspending service on foreign-held debts, blocking foreign-held marks, freezing foreign claims in Germany, eliminating unessential foreign expenditures, requisitioning German-held foreign exchange, subsidizing exports, issuing restricted marks, bartering under clearing agreements, licensing imports, and controlling all foreign exchange transactions to the end of favoring raw materials for armaments.

The Tribunal is also asked to take judicial notice of *Reichsgesetzblatt,* 1934, Page 997; *Reichsgesetzblatt,* 1933, Part I, Page 349; and *Reichsgesetzblatt,* 1937, Part I, Page 600, relating to the clearing bank, the conversion bank, and the maturity of foreign loans, all of which decrees are mentioned in the affidavit.

Schacht even went so far as to invest foreign-held Reichsmark on deposit in German banks in rearmament notes, thus, as he put it, financing rearmament with the assets of his political opponents. Without reading therefrom, I refer your Honors to Document Number 1168-PS, Exhibit USA-37, being a memorandum from Schacht to Hitler, dated 3 May 1935, which already appears in the transcript on Pages 412 and 413 (Volume II, Pages 312, 313). Moreover, Schacht even resorted to capital punishment to prevent the loss of foreign exchange when frightened capital began to flee from the country. In this connection reference is made to the Law against Economic Sabotage, found in 1936 *Reichsgesetzblatt,* Part I, Page 999, of which the Tribunal is asked to take judicial notice.

Schacht took particular pride in the results which were accomplished under the stringent controls which he instituted under his New Plan. I refer the Tribunal to Document Number EC-611, in evidence as Exhibit Number USA-622, consisting of Schacht's speech in Berlin on 29 November 1938. I wish to read into the Record an excerpt from the top of Page 10:

> "If there is anything remarkable about the New Plan, it is again only the fact that German organization under National Socialist leadership succeeded in conjuring up in a very short time the whole apparatus of supervision of imports, direction of exports, and promotion of exports. The success of the New Plan can be proved by means of a few figures. Calculated according to quantity, the import of finished products was cut down by 63 percent between 1934 and 1937. On the other

hand, the import of ores was increased by 132 percent, of petroleum by 116, of grain by 102, and of rubber by 71 percent."

While President of the Reichsbank and Minister of Economics, Schacht acquired still another key position, that of Plenipotentiary General for War Economy.

He received this appointment from Hitler pursuant to the unpublished Reich Defense Law secretly enacted on 21 May 1935. This law is in evidence as Document Number 2261-PS, Exhibit Number USA-24, consisting of a letter from Von Blomberg dated 24 June 1935 to the chiefs of the Army, Navy and Air Forces, together with copies of the Reich Defense Law and the Cabinet's memorandum relating thereto. Pertinent comments on and excerpts from this document appear in the transcript for 23 November, at Pages 278 and 292 (Volume II, Pages 220-229). I will simply state therefore that by virtue of this appointment Schacht was put in complete charge of economic planning and preparation for war in peacetime, except for certain direct armament production under control of the War Ministry. Upon the outbreak of war he was to be the economic czar of Germany with complete control over the activities of a number of key Reich ministries.

Schacht appointed Wohlthat as his deputy and organized a staff to carry out his directives. In this connection I offer in evidence excerpts from a pre-trial interrogation of Schacht under date 17 October 1945. This document is Exhibit Number USA-616 (Document 3729-PS). I wish to read into the Record a question and answer found at the bottom of Page 40 of the document book:

"Q: 'Let me ask you a general question then: Do you take the responsibility as Plenipotentiary General for War Economy for the writings that were made and the actions that were done by Wohlthat and his assistants?'

"A: 'I have to.'"

I also offer in evidence Document Number EC-258, Exhibit Number USA-625, consisting of a status report issued in December 1937 under the signature of Schacht's deputy, Wohlthat. The report is entitled, "The Preparation of the Economic Mobilization by the Plenipotentiary General for War Economy." Schacht had withdrawn from office immediately prior to the preparation of this report, and it plainly is a recapitulation of his accomplishments while in office. Since the entire text is relevant, we ask permission to submit the document without reading therefrom on condition that translations into French and Russian be later filed with the Tribunal.

THE PRESIDENT: I do not think this is consistent with the rule laid down by the Tribunal, which was that the translations in the French and Russian languages should be submitted at the same time. You are now suggesting that you can submit translations at a later stage.

LT. BRYSON: Well, if Your Honor pleases, in any event I did not plan to read from the document at this time and Defense Counsel do have the German original.

THE PRESIDENT: I was not speaking of the Defense Counsel so much as of the members of the Tribunal.

LT. BRYSON: We have the Russian translation in process now and it was delayed and we were unable to get it here at this time, but the delay will be very short and the document is of critical importance to our case.

THE PRESIDENT: How long will it be before it is ready?

LT. BRYSON: I wouldn't like to say precisely, Sir, but perhaps within 4 or 5 days.

THE PRESIDENT: What do you propose to do now, because it is a very complicated and long document, is it not?

LT. BRYSON: It is and it shows...

THE PRESIDENT: Were you proposing to summarize it?

LT. BRYSON: I was proposing to summarize it, Sir, now.

THE PRESIDENT: The Tribunal thinks that if you would summarize it now and only be permitted to put it in at the stage when you have the translation ready, you may summarize it now.

LT. BRYSON: I will summarize it now, Sir.

THE PRESIDENT: Will it take long to summarize?

LT. BRYSON: Not very long, Sir; no.

THE PRESIDENT: You see, it is 5 o'clock.

LT. BRYSON: I think there will be time to summarize it, and then we will stop.

This document discloses that before his resignation Schacht had worked out in amazing detail his plans and preparations for the management of the economy in the forthcoming war. For example, 180,000 industrial plants in 300 industries had been surveyed with respect to usefulness for war purposes; economic plans for the production of 200 basic materials had been worked out; a system for the letting of war contracts had been devised; allocations of coal, motor fuel, and power had been determined; 248 million Reichsmark had been spent on storage facilities alone; evacuation

plans for war materials and skilled workers from military zones had been worked out; 80 million wartime ration cards had already been printed and distributed to local areas; and a card index on the skills of some 22 million workers had been prepared.

That concludes the summary, Your Honor.

THE PRESIDENT: We will adjourn now.

[The Tribunal adjourned until 11 January 1946 at 1000 hours.]

THIRTY-SECOND DAY

Friday, 11 January 1946

Morning Session

LT. BRYSON: If the Tribunal please, before picking up our line of proof against the Defendant Schacht, I would like to supply a point of information.

Yesterday the President of the Tribunal inquired with respect to Document Number EC-457, Exhibit Number USA-619. The question raised by the Tribunal was with respect to the words "in retirement" in the letterhead used by Schacht in writing to Hitler in 1932. This is the letter in which Schacht expressed his belief in the truth of the Nazi movement and in which he said that Hitler could always count upon him as a reliable assistant.

The letterhead has printed upon it "The President of the Reichsbank" and after that phrase there is typed the letters "a. D.", and I understand that those letters are an abbreviation for a German phrase meaning "in retirement" and that it is customary, or it was customary, in Germany for retired officials to continue to use their titles with the letters "a. D."

THE PRESIDENT: I see.

LT. BRYSON: Yesterday we had just about completed our proof with respect to the contribution of the Defendant Schacht to the preparation for war, and I wish to submit one more document on this point. This is Document Number EC-451, Exhibit Number USA-626. It consists of a statement by George S. Messersmith, United States Consul General in Berlin, 1930 to 1934. I will quote therefrom, beginning with the second sentence of the fourth paragraph:

> "It was his"—Schacht's—"financial ability that enabled the Nazi regime in the early days to find the financial basis for the tremendous armament program and which made it possible to carry it through. If it had not been for his efforts, and this is not a personal observation of mine only but I believe was shared and is shared by every observer at the time, the Nazi regime would have been unable to maintain itself in power and to establish its control over Germany, much less to create the enormous war machine which was

necessary for its objectives in Europe and later throughout the world.

"The increased industrial activity in Germany incident to rearmament made great imports of raw materials necessary, while at the same time exports were decreasing. Yet by Schacht's resourcefulness, his complete financial ruthlessness, and his absolute cynicism, Schacht was able to maintain and to establish the situation for the Nazis. Unquestionably, without this complete lending of his capacities to the Nazi Government and all of its ambitions, it would have been impossible for Hitler and the Nazis to develop an armed force sufficient to permit Germany to launch an aggressive war."

We turn now . . .

THE PRESIDENT: Well, Lieutenant Bryson, I am not sure that that gives a full or quite fair interpretation of the document. Don't you think perhaps you ought to read the paragraph before?

LT. BRYSON: The preceding paragraph, Sir?

THE PRESIDENT: Yes.

LT. BRYSON: "Dr. Schacht always attempted to play both sides of the fence. He told me, and I know he told both other American representatives in Berlin and various British representatives, that he disapproved of practically everything that the Nazis were doing. I recall on several occasions his saying, after the Nazi Party came into power, that if the Nazis were not stopped, they were going to ruin Germany and the rest of the world with it. I recall distinctly that he emphasized to me that the Nazis were inevitably going to plunge Europe into war."

If the Court please, I would like to read also from the last paragraph:

"In my opinion Schacht was in no sense a captive of the Nazis. He was not compelled to devote his time and his capacities to their interest. His situation was such that he would most likely have been able either to work on much less restrained scale or to abstain from activity entirely. He continued to lend his services to the Nazi Government out of opportunism."

We turn now to the third part of our case against Schacht. The evidence is clear that he willingly contributed his efforts to the Nazi conspiracy, knowing full well its aggressive designs. The Tribunal will recall our proof that Schacht was converted to the Nazi philosophy in 1931 and helped Hitler come to power in 1933. We will now prove, first, that Schacht personally favored aggression and, second, that in any event he knew Hitler's aggressive intentions.

There is ample evidence to justify the conclusion that Schacht rearmed Germany in order to see fulfilled his strong belief in aggressive expansion as an instrument of German national policy. Schacht had long been a German nationalist and expansionist. He spoke against the Treaty of Versailles at Stuttgart as early as 1927. I offer in evidence Document EC-415, Exhibit Number USA-627, consisting of a collection of excerpts from speeches by Schacht. I quote from the top of Page 2: "The Versailles Dictate cannot be an eternal document, because not only its economic but also its spiritual and moral premises are wrong."

It is common knowledge that he strongly favored acquisition of colonial territory by Germany. However, he also favored acquisition of contiguous territory in Europe. On 16 April 1929 at the Paris conference in connection with reparations, he said . . .

THE PRESIDENT: Are you going to read the passage that follows that at a later stage?

LT. BRYSON: At a later stage, if you please, Sir, in connection with another point.

THE PRESIDENT: Very well; go on.

LT. BRYSON: On 16 April 1929, at the Paris conference in connection with reparations, he said:

> "Germany can as a whole pay only if the Corridor and Upper Silesia will be handed back to Germany from Polish possession and if, besides, somewhere on the earth, colonial territory will be made available to Germany."

THE TRIBUNAL (Mr. Biddle): What are you quoting from?

LT. BRYSON: I offer in evidence Exhibit Number USA-628 (Document 3726-PS), consisting of excerpts from a pre-trial interrogation of Schacht on 24 August 1945. You will find it in the document book at the back, labelled "Interrogation of 24 August". At the top of the first page of the interrogation this statement was quoted to Schacht, and his reply contains an admission of having made the statement. In his reply he said:

> "That Germany could not pay at the time after I made the statement has been proved, and that Germany will not be able to pay after this war will be proved in the future."

I wish to point out that this is the very territory which was the subject of the armed aggression in September 1939.

In 1935 Schacht stated flatly that Germany would, if necessary, acquire colonies by force. I offer in evidence Document EC-450, designated as Exhibit Number USA-629. This document consists of an affidavit of S. R. Fuller, Jr., together with a transcript of his

conversation with Schacht at the American Embassy in Berlin on 23 September 1935. I wish to read from Page 6 of the document where there appears a statement by Schacht in the lower half of the page.

THE PRESIDENT: What is the date of the conversation?

LT. BRYSON: The conversation occurred on 23 September 1935. The page number of this document is at the bottom, and I quote from Page 6:

> "Schacht: 'Colonies are necessary to Germany. We shall get them through negotiation, if possible; but if not, we shall take them.'"

In July 1936, when the rearmament program was well under way, Schacht again publicly spoke of the Versailles Treaty. This time his language contained an explicit threat of war. I refer the Tribunal again to Document EC-415, which I have previously introduced in evidence as Exhibit Number USA-627, consisting of a collection of speeches by Schacht. I wish to read from the paragraph beginning in the middle of the first page:

> "But the memory of war weighs undiminished upon the peoples' mind. That is because, deeper than material wounds, moral wounds are smarting, inflicted by the so-called peace treaties. Material loss can be made up through labor, but the moral wrong which has been inflicted upon the conquered peoples in the peace dictates, leaves a burning scar on the peoples' conscience. The spirit of Versailles has perpetuated the fury of war; and there will not be a true peace, progress, or reconstruction until the world desists from this spirit. The German people will not tire of pronouncing this warning."

Later in the same year Schacht publicly advocated the doctrine of Lebensraum for the German people. I quote again from Document EC-415, Exhibit Number USA-627, being an excerpt from Schacht's speech at Frankfurt on 9 December 1936, on the second page, the last paragraph:

> "Germany has too little living space for her population. She has made every effort, and certainly greater efforts than any other nation, to extract from her own existing small space whatever is necessary for the securing of her livelihood. However, in spite of all these efforts, the space does not suffice."

In January 1937 Schacht, in a conversation with Ambassador Davies, at least by inference threatened a breach of the peace in demanding a colonial cession. I offer in evidence Document L-111, being Exhibit Number USA-630, and consisting of excerpts from a

report under date of 20 January 1937, by Ambassador Davies to the Secretary of State. I wish to read therefrom, beginning with the second sentence of the second paragraph:

"He"—meaning Schacht—"stated the following:

"That the present condition of the German people was intolerable, desperate, and unendurable; that he had been authorized by his Government to submit proposals to France and England which would: (1) Guarantee European peace, (2) secure present European international boundaries, (3) reduce armaments, (4) establish a new form of a workable league of nations, and (5) abolish sanctions with new machinery for joint administration; all based upon a colonial cession that would provide for Germany an outlet for population, a source for food stuffs, fats, and raw materials."

In December 1937 Ambassador Dodd noted in his diary that Schacht would be willing to risk war for the sake of new territory in Europe. I refer the Tribunal to Document EC-461, consisting of excerpts from Ambassador Dodd's diary.

THE PRESIDENT: The proposal contained in Document L-111 was for cession of colonies, was it not?

LT. BRYSON: It was, Sir.

I turn now to Document EC-461, consisting of excerpts from Ambassador Dodd's diary. The entire diary has previously been received in evidence as Exhibit Number USA-58. I quote some notes on a conversation with Schacht on 21 December 1937, beginning near the bottom of the second page of Document EC-461, in the last paragraph:

"Schacht meant what the army chiefs of 1914 meant when they invaded Belgium, expecting to conquer France in 6 weeks; that is, domination and annexation of neighboring little countries, especially north and east. Much as he dislikes Hitler's dictatorship, he, like most other eminent Germans, wishes annexation without war if possible; with war if the United States will keep hands off."

THE PRESIDENT: There is another passage in that book, that diary. I am not sure; it probably is not the same date, but it is on the first page of the exhibit, I think—the third paragraph.

LT. BRYSON: The third paragraph.

THE PRESIDENT: Is it at a different time?

LT. BRYSON: It is a different time, Sir.

THE PRESIDENT: September the 19th of what year?

LT. BRYSON: We will check that in the complete volume here, and I think in a minute I will be able to supply the date. In the meantime would you like me to read it, Sir?

THE PRESIDENT: Yes, I think you had better read it.

LT. BRYSON: "He then acknowledged that the Hitler Party is absolutely committed to war; and the people, too, are ready and willing. Only a few government officials are aware of the dangers and are opposed. He concluded, 'But we shall postpone it 10 years. Then it may be we can avoid war'".

THE PRESIDENT: Well, I think you should read the next paragraph, too.

LT. BRYSON: "I reminded him of his Bad Eilsen speech some 2 weeks ago and said, 'I agree with you about commercial and financial matters in the main. But why do you not, when you speak before the public, tell the German people they must abandon a war attitude?' He replied, 'I dare not say that. I can speak only on my special subjects.'"

THE PRESIDENT: And the next one.

LT. BRYSON: And the next one:

"How, then, can German people ever learn the real dangers of war, if nobody ever presents that side of the question? He once more emphasized his opposition to war and added that he had used his influence with Hitler—'a very great man', he interjected—to prevent war. I said, 'The German papers printed what I said at Bremen about commercial relations between our countries, but not a word about the terrible effects and barbarism of war.' He acknowledged that and talked very disapprovingly of the Propaganda Ministry which suppresses everything it dislikes. He added, as I was leaving 'You know a party comes into office by propaganda and then cannot disavow it or stop it.'"

The date of his conversation was in September 1934.

THE PRESIDENT: It is a pity that those years are not stated in the document. It is rather misleading as it is.

LT. BRYSON: If the Court please, the exhibit which is in evidence will show the dates.

THE PRESIDENT: Yes, I am not blaming you; but it is misleading, because it looks like September the 19th and December the 21st, and as there were 3 years' interval between, it makes a difference. That is right, isn't it?

LT. BRYSON: Yes, that is right. I am sorry the excerpt simply shows the page numbers from the exhibit, and not the dates.

Schacht admittedly strained all the resources of Germany to build up a Wehrmacht which would provide Hitler with an instrument of realization of his desire for Lebensraum. In this connection I offer in evidence Document Number EC-369, Exhibit Number USA-631, consisting of a memorandum from the Reichsbank Directorate, signed by Schacht, to Hitler, dated 7 January 1939. I wish to read the last paragraph of the first page:

> "From the beginning the Reichsbank has been aware of the fact that a successful foreign policy can be attained only by the reconstruction of the German Armed Forces. It—the Reichsbank—therefore assumed to a very great extent the responsibility of financing the rearmament in spite of the inherent dangers to the currency. The justification thereof was the necessity, which pushed all other considerations into the background, to carry through the armament at once, out of nothing and furthermore under camouflage, which made a respect-commanding foreign policy possible."

It is clear that the "successful foreign policy" which Schacht thus attributed to rearmament included the Austrian and Czechoslovakian acquisitions. I offer in evidence Document EC-297(a), Exhibit Number USA-632, being a speech of Schacht's in Vienna after the Anschluss in March 1938. I quote from the third page and the second full paragraph:

> "Thank God, these things could not after all hinder the great German people on their way, for Adolf Hitler has created a communion of German will and German thought. He bolstered it with the newly strengthened Wehrmacht and finally gave the external form to the internal union between Germany and Austria."

With respect to the Sudetenland I refer the Tribunal to Document EC-611, already in evidence as Exhibit Number USA-622, being a speech by Schacht; EC-611—but I will not read it, Sir—being a speech by Schacht on 29 November 1938, shortly after the Munich settlement. I have earlier read the pertinent remark attributing Hitler's success at that conference to the rearmament made possible by Schacht's financial and economic measures.

This line of proof shows that Schacht entertained an aggressive philosophy with respect to territorial expansion and justifies the conclusion that he allied himself with Hitler because of their common viewpoint.

We turn now to prove that, whether or not Schacht wanted war, he at least knew Hitler planned military aggression for which he was creating the means. He had numerous discussions with Hitler from 1933 to 1937. He knew that Hitler was intent upon expansion to the east, which would mean war, and that Hitler felt

he must present the German people with a military victory. I offer in evidence Exhibit Number USA-633 (Document 3727-PS), consisting of an excerpt from a pre-trial interrogation of Schacht on 13 October 1945, and I read from the second page at the end of the second question:

"Q: 'What was there in what he'"—meaning Hitler—"'said that led you to believe he was intending to move towards the east?'

"A: 'That is in *Mein Kampf*. He never spoke to me about that, but it was in *Mein Kampf*.'

"Q: 'In other words, as a man who read it, you understood that Hitler's expansion policy was directed to the east?'

"A: 'To the east.'

"Q: 'And you thought that it would be better to try to divert Hitler from any such intention and to urge upon him a colonial policy instead?'

"A: 'Quite.'"

I also offer in evidence Document EC-458, Exhibit Number USA-634, consisting of an affidavit of Major Edmund Tilley under date of 21 November 1945, with respect to an interview of Schacht on 9 July 1945. I read the second paragraph:

"During the course of the discussion Schacht stated to me that he had had numerous talks with Hitler from 1933 to 1937. Schacht stated that from these talks he had formed the impression that in order to make his hold and government secure, the Führer felt that he must present the German people with a military victory."

As early as 1934, Schacht stated his belief that the Nazis would bring war to Europe. I refer the Tribunal to Document EC-451, which I have already submitted in evidence as Exhibit Number USA-626, consisting of an affidavit under date of 15 November 1945 by Messersmith, American Consul General in Berlin, 1930 to 1934. I wish to read from the first page, third paragraph, last sentence.

THE PRESIDENT: You have read it already.

LT. BRYSON: If the Court please, there is a little more there which we have not read, which I should like to read.

THE PRESIDENT: You read the whole paragraph. At our invitation you read from the third paragraph down to the bottom of the page.

LT. BRYSON: I should like to read the first sentence of the fourth paragraph on Page 1.

THE PRESIDENT: All right.

LT. BRYSON: "While making these protestations he nevertheless showed by his acts that he was thoroughly an instrument of the whole Nazi program and ambitions and that he was lending all his extraordinary knowledge and resourcefulness toward the accomplishment of that program."

THE PRESIDENT: Lieutenant Bryson, speaking for myself and for some other members of the Tribunal, we think it is a far better way to deal with a document, to deal with it, if possible, once and for all, and not to be coming back to it. It not only wastes time by the fact that the Tribunal have got to turn back and forth, back and forth, to the document; but you get a much fairer idea of the document if it is dealt with once and for all, although it may cover more than one subject. I say that although it may be impossible for you to do that now in consonance with the preparations that you have made; but those who follow you may be able to alter their course. If it is possible, when you get a document with a variety or a number of paragraphs in it which you want to quote, you should quote them all at the same time. Do you follow what I mean?

LT. BRYSON: I follow you, Your Honor. We have so organized our materials that we have directed our evidence to specific points, and since the points are separated, we had to separate our quotations.

THE PRESIDENT: I realize that it may be difficult for you.

LT. BRYSON: In September of 1934 Ambassador Dodd made a record in his diary of a conversation with Sir Eric Phipps at the British Embassy in Berlin. If the Court please, I will pass over this document, because in response to a question from the Tribunal, I read an excerpt from the document which covers the same point that I was about to direct myself toward.

I had just pointed out that Schacht has acknowledged to Ambassador Dodd in September 1934 his knowledge of the war purposes of the Nazi Party; and we had already shown that in 1935 Schacht had stated that Germany would, if necessary, acquire colonies by force. He must then have known to what length Hitler was prepared to go.

After attending a meeting of the Reich ministers on 27 May 1936 in Berlin, Schacht must have known that Hitler was contemplating war. Your Honors may recall, as has been earlier shown, that at this meeting the Defendant Göring, who was very close to Hitler, stated that all measures are to be considered from the standpoint of an assured waging of war and that waiting for

new methods is no longer appropriate. I refer the Tribunal to Document 1301-PS, from which I will not read, as the quotation is already in evidence in Exhibit Number USA-123.

On 31 August 1936 the War Minister, Von Blomberg, sent to Schacht a copy of Von Blomberg's letter to the Defendant Göring. I refer the Tribunal again to 1301-PS, previously submitted in evidence as Exhibit Number USA-123, and read from the middle of Page 19 of the document. The page numbers, if the Court please, on this document are found in the upper lefthand corner:

> "According to an order of the Führer the setting up of all Air Force units is to be completed on 1 April 1937. Therefore considerable expenditures have to be made in 1936, which at the time when the budget for 1936 was made were planned for later years only."

This intensification of the air force program certainly revealed to Schacht the closeness to war which Hitler must have felt.

I also offer in evidence Document EC-416, Exhibit USA-635, consisting of minutes of the Cabinet meeting of 4 September 1936 which Schacht attended. I read the statement by Göring found at the top of Page 2 of this document:

> "The Führer and Reichskanzler has given a memorandum to the Colonel General and the Reich War Minister which represents a general instruction for the execution of this task.
>
> "It starts from the basic thought that the show-down with Russia is inevitable."

Schacht thus knew that Hitler expected war with Russia. He also knew of Hitler's ambitions towards the east. It must have been plain to him, therefore, that such a war would result from Russian opposition to German military expansion in that direction; that is, Schacht must have known that it would be a war of German aggression.

In January 1937, the Tribunal will recall, Schacht stated to Ambassador Davies in Berlin that he had "been authorized by his government" to submit certain proposals to France and England which, in fact, amounted to a bid for colonies under threat of war. If Schacht was acting under instructions from Hitler, he was necessarily familiar with Hitler's aggressive intentions at that time.

In November of 1937 Schacht knew Hitler was determined to acquire Austria and at least autonomy for the Germans of Bohemia and that Hitler also had designs on the Polish Corridor. I refer the Tribunal to Document L-151, already in evidence as

Exhibit Number USA-70, this being a letter containing a memorandum of a conversation between Schacht and Ambassador Bullitt, dated 23 November 1937. I quote the last paragraph on Page 2:

> "Hitler was determined to have Austria eventually attached to Germany and to obtain at least autonomy for the Germans of Bohemia. At the present moment he was not vitally concerned about the Polish Corridor, and in his"—Schacht's—"opinion it might be possible to maintain the Corridor, provided Danzig were permitted to join East Prussia and provided some sort of a bridge could be built across the Corridor uniting Danzig and East Prussia with Germany."

To digress for just a moment, Schacht here was really speaking for himself as well as for Hitler. We have seen from his speech of 29 March 1938 in Vienna his enthusiasm for the Anschluss after the event. He was even working hard for its achievement. In this connection I refer the Tribunal to Pages 506 and 507 of the transcript (Volume II, Page 373) for evidence of Schacht's having subsidized the Nazis' preliminary agitation in Austria.

In addition to the foregoing direct evidence, the Tribunal is asked to take into consideration the fact that to such a man as Schacht the events of the period certainly bespoke Hitler's intention. Schacht was a close collaborator of Hitler and a member of the Cabinet during the period of the Nazi agitation in Austria, the introduction of conscription, the march into the Rhineland, the overthrow of the Republican Government in Spain, the ultimate conquest of Austria, and the acquisition of the Sudetenland by a show of force. During this period the Reich's debt tripled under the stress of mounting armaments, the expenditures from 750,000,000 Reichsmarks in 1932 to 11,000,000,000 Reichsmarks in 1937, and 14,000,000,000 Reichsmarks in 1938. During the entire period 35,000,000,000 Reichsmarks were spent on armaments. It was a period in which the burning European foreign policy issue was the satisfaction of Germany's repeated demands for additional territory. Hitler, committed to a policy of expansion, was taking great risks in foreign policy and laying the greatest stress upon utmost speed in preparation for war.

Certainly, in this setting Schacht did not proceed in ignorance of the fact that he was assisting Hitler and Germany along the road toward armed aggression.

We turn now to our last line of proof with respect to Schacht's loss of power in the Hitler regime. In November 1937, Schacht resigned his offices as Minister of Economics and General Plenipotentiary for the War Economy. At that time he accepted appointment as Minister without Portfolio and he also continued as President of the Reichsbank.

Our evidence will show: (a) This change in position was no more than a clash between two power-seeking personalities, Göring and Schacht, in which Göring, being closer to Hitler, won out; (b) their policy differences were concerned only with the method of rearming; and (c) Schacht's loss of power in no sense implies an unwillingness to assist armed aggression.

There was an issue of policy between Göring and Schacht, but it was concerned only with the method and not the desirability of war preparations. Schacht emphasized foreign trade as a necessary source of rearmament material during the transitory period until Germany should be ready to strike. Göring was a proponent of complete self-sufficiency. Hitler supported Göring; and Schacht, his pride wounded and bitterly resenting Göring's intrusion in the economic field, finally stepped out.

I refer the Tribunal to Document 1301-PS, previously submitted in evidence as Exhibit Number USA-123, containing notes of a conversation between Schacht and Thomas on 2 September 1936. These are found on Page 21 of the document, from which I quote:

"President Schacht called me to him at 1300 hours today and requested me to forward the following to the Minister of War: Schacht returned from the Führer with the greatest anxiety, since he could not agree to the economic program planned by the Führer.

"The Führer wants to speak at the Party convention about economic policy and wants to emphasize there that we now want to get free from foreign countries with all our energy by production in Germany.

"Schacht requests urgently that the Reich Minister of War warn the Führer from this step."

And three paragraphs farther down:

"If we now shout out abroad our decision to make ourselves economically independent, then we cut our own throats, because we can no longer survive the necessary transitory period."

Nevertheless, Hitler announced the Four Year Plan of self-sufficiency a few days later in Nuremberg, and against Schacht's wishes Göring was named Plenipotentiary of the Four Year Plan.

At this point I refer the Tribunal again to the interrogation of Schacht on 16 October 1945, being Exhibit Number USA-636; and I wish to read beginning near the bottom of Page 9 of the document:

"Q: 'And the Four Year Plan came in when?'

"A: 'It was announced in September '36, on the Party Day.'

"Q: 'Do you say that from the time that the Four Year Plan came in in September 1936, you were ready to rid yourself of your economic duty?'

"A: 'No. At that time I thought that I might maintain my position even against Göring.'

"Q: 'Yes, in what sense?'

"A: 'That he would not interfere with affairs which I had to manage in my ministry.'

"Q: 'As a matter of fact, his appointment was not met with favor by you?'

"A: 'I would not have ever appointed a man like Göring who didn't understand a bit about all these things.'"

Schacht and Göring immediately became embroiled in a conflict of jurisdiction. On 26 November 1936 Göring issued a directive regarding raw and synthetic material production. I offer in evidence Document EC-243, Exhibit Number USA-637, consisting of a copy of this directive. It shows that Göring's Office for Raw and Synthetic Materials pre-empted control over large economic areas previously in the hands of Schacht. As an example, I will quote from Paragraph V of the directive on Page 4 of the document:

"The planning and determination of objectives, as well as the control over the execution of the tasks which must be accomplished within the framework of the Four Year Plan, are the responsibility of the Office for German Raw and Synthetic Materials, which supersedes the authorities which have heretofore been in charge of these tasks."

On 11 December 1936 Schacht found it necessary to order all supervisory offices in the Ministry of Economics to accept instructions from him alone. I offer in evidence Document EC-376, Exhibit Number USA-638, consisting of a circular letter from Schacht to all supervisory offices under date of 11 December 1936, and I quote from the second paragraph:

"The supervisory offices are obliged to accept instructions from me alone. They must answer all official inquiries for any information of the Office for German Raw and Synthetic Materials in order to give any information at any time to the fullest extent."

And a little further down:

"... I herewith authorize the supervisory offices to take the necessary measures for themselves. In case doubts should result from requests of the above offices and these doubts cannot be cleared by oral negotiations with the experts of these offices, I should be informed immediately. I will then order in each case the necessary steps to be taken."

The military sided with Schacht, who had rearmed them so well. I offer in evidence Document EC-420, Exhibit Number USA-639, consisting of a draft of a memorandum by the Military Economic Staff, dated 19 December 1936. I wish to read from Paragraph 1:

"(1) The direction of war economy in the civilian sector in case of war can be handled only by the person who in peacetime has borne the sole responsibility for the preparations for war.

"Upon recognizing this fact a year and a half ago Reichsbank President Dr. Schacht was appointed Plenipotentiary General for War Economy and an operations staff was attached to his office."

And then Paragraph Number 2:

"(2) The Military Economy Staff does not deem it compatible with the principle laid down in Number 1, Paragraph 1, if the Plenipotentiary General for War Economy is now placed under the Minister President General Göring's command."

In January 1937 the *Military Weekly Gazette* published an article warmly praising Schacht's achievements in rearmament. Without reading it I offer in evidence Document EC-383, Exhibit Number USA-640, containing this article, a pertinent quotation from which already appears in the transcript for 23 November at Page 296 (Volume II, Page 233).

Shortly thereafter Schacht attempted to force a show-down with Göring by temporarily refusing to act in his capacity as Plenipotentiary. I offer in evidence Document EC-244, Exhibit Number 641, consisting of a letter from Von Blomberg, the Minister of War, to Hitler under date of February 22, 1937. I read the second paragraph of this letter as follows:

"The President of the Reichsbank, Dr. Schacht, has notified me that he is not acting in his capacity as Plenipotentiary for the time being, since in his opinion there exist discrepancies regarding the powers conferred upon him and those of Colonel General Göring. Because of this the preparatory mobilization steps in the economic field are delayed."

Schacht obviously was using his importance to the war preparations as a lever.

THE PRESIDENT: Lieutenant Bryson, does the Defendant Schacht admit in his interrogation that the reason for his giving up his office was the difference of opinion between him and the Defendant Göring?

LT. BRYSON: He does, Sir, and the Defendant Göring so states in his interrogation.

THE PRESIDENT: Is it necessary to go into the details of their quarrel?

LT. BRYSON: If the Court will be satisfied that this was the cause of Schacht's resignation . . .

THE PRESIDENT: If they both say so . . .

LT. BRYSON: . . . and that the cause was not his unwillingness to go along with the aggressive intentions of the Nazis at that time, I shall be perfectly satisfied to confine our evidence to the interrogations of Schacht and Göring.

THE PRESIDENT: Does he suggest that in his interrogation?—that that might have been the reason?

LT. BRYSON: I will find out, Sir, but our case against Schacht is premised upon conspiracy.

THE PRESIDENT: If the Defendant Schacht wants to set up such a case as that, you could apply to be heard in rebuttal.

LT. BRYSON: Well, we shall be satisfied then to eliminate a number of our items of evidence, including the controversy between Göring and Schacht, and satisfy ourselves with the interrogations.

THE PRESIDENT: Yes.

LT. BRYSON: If the Court please, we are almost at the time of the break. Perhaps during the break we can arrange our evidence.

THE PRESIDENT: Yes, we will adjourn now for 10 minutes.

[A recess was taken.]

PROFESSOR DR. HERBERT KRAUS (Counsel for Defendant Schacht): We agree that the question of the disagreement between the Defendants Göring and Schacht need not be discussed further at this time. But we shall come back to and deal in detail with the question as to how far these disagreements had any bearing on the plan for an aggressive war.

LT. BRYSON: If the Tribunal please, we have eliminated part of our proof. I would simply like to put in a letter from Göring and an interrogation of Schacht which will finish up the question of the disagreement.

Under date of 5 August 1937 Schacht wrote a critical letter to Göring, who replied with a 24-page letter on 22 August 1937. Göring's letter reviews their many differences in detail. I offer it as Document EC-493, Exhibit Number USA-642, and I wish to read simply one statement found in the middle of Page 13:

"In conclusion I should like to refer to remarks which you made in a paragraph of your letter entitled 'The Four

Year Plan' about your general attitude toward my work in regard to the economic policy. I know and I am pleased that at the beginning of the Four Year Plan you promised me your most loyal support and co-operation and that you repeatedly renewed this promise even after the first differences of opinion had occurred and had been removed in exhaustive discussions. I deplore all the more having the impression recently, which is confirmed by your letter, that you are increasingly antagonistic toward my work in the Four Year Plan. This explains the fact that our collaboration has gradually become less close. . . ."

Schacht and Göring were reconciled by written agreement on 7 July 1937 but subsequently again fell into disagreement, and Hitler finally accepted Schacht's resignation as Minister of Economics on 26 November 1937, simultaneously appointing him Minister without Portfolio, and later Schacht's resignation was extended to his position as Plenipotentiary for War Economy. Without reading it, I offer in evidence Document EC-494, Exhibit Number USA-643, as proof of this fact.

Now, finally, I wish to refer the Tribunal to the interrogation of Schacht, under date of 16 October 1945, Document 3728-PS, Exhibit Number USA-636, and I wish to read from Page 12 of the document near the bottom:

"A: 'It may amuse you if I tell you that the last conversation' "—this is Schacht speaking—" 'that I had with Göring on these topics was in November 1937, when Luther for 2 months had endeavored to unite Göring and myself and to induce me to cooperate further with Göring and maintain my position as Minister of Economics. Then I had a last talk with Göring; and at the end of this talk Göring said, "But I must have the right to give orders to you." Then I said, "Not to me, but to my successor." I have never taken orders from Göring; and I would never have done it because he was a fool in economics, and I knew something about it, at least.'

"Q: 'Well, I gather that was a culminating, progressive personal business between you and Göring. That seems perfectly obvious.'

"A: 'Certainly.' "

In all this abundant and consistent evidence there is not the slightest suggestion that Schacht's withdrawal from these two posts represented a break with Hitler on the ground of contemplated military aggression. Indeed, Hitler was gratified that Schacht would still be active in the Government as President of the Reichsbank

and as Minister without Portfolio. I offer in evidence Document L-104, Exhibit Number USA-644, consisting of a letter to the United States Secretary of State from Ambassador Dodd, under date of 29 November 1937, enclosing a translation of Hitler's letter of 26 November 1937 to Schacht. I quote the last two sentences of Hitler's letter, found on Page 2 of the document:

> "If I accede to your wish it is with the expression of deepest gratitude for your so excellent achievements and in the happy consciousness that, as President of the Reichsbank Directorate you will make available for the German people and me for many years more your outstanding knowledge and ability and your untiring energy. Delighted at the fact that in the future, also, you are willing to be my personal adviser, I appoint you as of today a Reich Minister."

Schacht did continue, obviously still in full agreement with Hitler's aggressive purpose. He was still President of the Reichsbank at the time of the taking of Austria in March 1938. In fact, the Reichsbank took over the Austrian National Bank. On this point I refer the Tribunal to *Reichsgesetzblatt* 1938, Part I, Page 254, and ask that judicial notice be taken thereof. Further, Schacht even participated in the planning of the absorption of Austria. In this connection I introduce into evidence Document EC-421, Exhibit Number USA-645, consisting of excerpts from minutes of a meeting of the staff of General Thomas on 11 March 1938 at 1500 hours. I quote therefrom as follows:

> "Lieutenant Colonel Hünerm reads directive of the Führer of 11 March concerning the 'Action Otto' and informs us that 'The Economy War Service Law' has been put in force. He then reads Directives 1 and 2 and gives special orders to troops for crossing the Austrian borders. According to that, at Schacht's suggestion, no requisitions should be made but everything ought to be paid for at the rate of 2 schillings to 1 Reichsmark."

On the conversion of the Austrian schilling the Tribunal is asked also to take judicial notice of *Reichsgesetzblatt* 1938, Part I, Page 405.

The Tribunal, of course, is already familiar with the public approval by Schacht of the Anschluss in his Vienna speech of 21 March 1938, and Your Honors will also recall Schacht's pride in Hitler's use of the rearmed Wehrmacht at Munich, as expressed in his speech of 29 November 1938. Both speeches were subsequent to his resignation in November 1937.

We come now to the removal of Schacht from the presidency of the Reichsbank in January 1939. The reason for this development is quite clear. Schacht lost confidence in the credit capacity

of the Reich and was paralyzed with the fear of a financial collapse. He felt that the maximum level of production had been reached, so that an increase in banknote circulation would only cheapen money and bring on inflation. In this attitude he ceased to be useful to Hitler, who was about to strike and wished to tap every ounce of available Government credit for military purposes.

I refer the Tribunal to Document EC-369, which I have previously submitted in evidence as Exhibit Number USA-631. This document is a memorandum from the Reichsbank directorate to Hitler, under date of 7 January 1939, in which Schacht reviews in detail his fears of inflation. The seriousness of the situation may be seen generally from the entire text. I wish to quote several of the more crucial statements, one from the last paragraph on Page 3, the second sentence:

"We are, however, faced with the fact that approximately 3 billion Reichsmark of such drafts cannot now be paid, though they will be due in 1939."

I quote from the upper half of Page 4:

"Exclusive of the Reichsbank there are approximately 6 billion Reichsmark mefo drafts which can be discounted against cash payment at any time at the Reichsbank, which fact represents a continuous danger to the currency."

And I quote finally from the concluding paragraph of the memorandum:

"We are convinced that the effects on the currency caused by the policy of the last 10 months can be mended and that the danger of inflation again can be eliminated by strict maintenance of a balanced budget. The Führer and Reich Chancellor himself has publicly rejected, again and again, an inflation as foolish and fruitless.

"We therefore ask for the following measures:

"(1) The Reich as well as all the other public offices must not incur expenditures or assume guaranties and obligations that cannot be covered by taxes or by those funds which can be raised through loans without disturbing the long-term investment market.

"(2) In order to carry out these measures effectively, full financial control over all public expenditures must be restored to the Reich Minister of Finance.

"(3) The price and wage control must be rendered effective. The existing mismanagement must be eliminated.

"(4) The use of the money and investment market must be at the sole discretion of the Reichsbank."

It is clear that Schacht's fear was genuine and is a complete explanation for his departure from the scene. He had good reason to be afraid. In fact, the Finance Minister had already recognized the situation in September 1938. I refer the Tribunal to Document EC-419, Exhibit Number USA-621, which I have already submitted in evidence and which consists of a letter under date of 1 September 1938 from Krosigk to Hitler, in which Krosigk warns of an impending financial crisis. I quote from the bottom of Page 2.

THE PRESIDENT: Is that not really cumulative of what you have already read?

LT. BRYSON: We will be glad to skip it, Sir. It is cumulative.

Schacht was not only afraid of a financial crisis, but he was afraid that he personally would be held responsible for it. I offer in evidence an affidavit of Emil Puhl, a director of the Reichsbank and co-worker of Schacht, dated 8 November 1945, designated as Document EC-438, Exhibit Number USA-646, and I read therefrom, beginning at the bottom of the second page:

> "When Schacht saw that the risky situation which he had sponsored was becoming insoluble, he was more and more eager to get out. This desire to get out of a bad situation was for a long time the 'Leitmotiv' of Schacht's conversation with the directors of the bank."

In the end Schacht escaped by deliberately stimulating his dismissal from the Presidency of the Reichsbank. I offer in evidence Document 3731-PS, Exhibit Number USA-647, consisting of excerpts from an interrogation of Von Krosigk under date of 24 September 1945, and I wish to read several statements beginning at the very bottom of the second page:

> "I asked Mr. Schacht to finance for the Reich for the ultimo of the month the sum of 100 or 200 millions. It was this quite customary procedure which we had used for years, and we used to give back this money after a couple of days. Schacht this time refused and said that he was not willing to finance a penny because he wanted, as he said, that it should be made clear to Hitler that the Reich was bankrupt. I tried to explain that this was not the proper ground to discuss the whole question of financing because the question of financing very small sums for a few days during ultimo never would bring Hitler to the conviction that the whole financing was impossible. As far as I remember now, it was Funk who told Hitler something about this conversation; then Hitler asked Schacht to call upon him. I do not know what they said but the result certainly was the dismissal of Schacht."

THE PRESIDENT: Just give me the reference again to that document that you were reading from.

LT. BRYSON: This is the interrogation of Von Krosigk under date of 24 September 1945. I wish to read further, continuing on Page 3:

"Q: 'Now did Schacht ever say anything to you to the effect that he wanted to resign because he was in opposition to the continuance of the rearmament program?'

"A: 'No, he never said it in this specific form, but in some conversations he certainly spoke about it several times in his own way when he had encounters with Göring . . . therefore I did not take these things very seriously.'

"Q: 'Well, let me put it this way, and please think carefully about this. Did Schacht ever say that he wanted to resign because he realized that the extent of the rearmament program was such as to lead him to the conclusion that it was in preparation for war rather than for defense?'

"A: 'No, he never did.'

"Q: 'Was Schacht ever quoted to you to this effect by any of your colleagues or by anybody else?'

"A: 'No.'

"Q: 'Now, after Keitel took over the position of Chief of the Wehrmacht were there still meetings between Schacht and yourself with Keitel in place of Blomberg?'

"A: 'Yes.'

"Q: 'Did Schacht ever say anything at these meetings to indicate that except for the technical question of the financing through the Reichsbank directly he was opposed to a further program of rearmament or opposed to the budget of the Wehrmacht?'

"A: 'No, I do not think he ever did.'"

The Defendant Göring has also confirmed this testimony. I refer the Tribunal to the interrogation of Göring under date of 17 October 1945, this being Document 3730-PS, Exhibit Number USA-648. I read from the interrogation of Göring on 17 October 1945, from the lower half of the third page:

"Q: 'I want to ask you this specifically. Was Schacht dismissed from the Reichsbank by Hitler for refusing to participate any further in the rearmament program?'

"A: 'No, because of his utterly impossible attitude in this matter regarding this advance, which had no connection with the rearmament program.'"

Hitler dismissed Schacht from the Reichsbank on 20 January 1939. Without reading, I offer in evidence Document EC-398, Exhibit Number USA-649, consisting merely of a brief note from Hitler to Schacht announcing his dismissal.

From all of the foregoing it is clear that Schacht's dismissal in no sense reflected a parting of the ways with Hitler on account of proposed aggression. This fact may also be seen from Document EC-397, Exhibit Number USA-650, consisting of Hitler's letter to Schacht under date of 19 January 1939, the text of which I wish to read:

> "At the occasion of your recall from office as President of the Reichsbank Directorate I take the opportunity of expressing to you my most sincere and warmest gratitude for the services which you have rendered repeatedly to Germany and to me personally in this capacity during long and difficult years. Your name, above all, will always be connected with the first epoch of the national rearmament. I am happy to be able to avail myself of your services for the solution of new tasks in your position as Reich Minister."

In fact, Schacht continued as Minister without Portfolio until January 1943.

I wish to conclude by saying that the evidence shows: First, Schacht's work was indispensable to Hitler's rise to power and to the rearmament of Germany; second, Schacht personally was favorably disposed towards aggression and knew Hitler intended to and would break the peace; and, third, Schacht retired from the scene for reasons wholly unrelated to the imminence of illegal aggression.

As long as he remained in power, Schacht was working as eagerly for the preparation of aggressive war as any of his colleagues. He was beyond any doubt most effective and valuable in this connection. His assistance in the earlier phase of the conspiracy made their later crimes possible. His withdrawal from the scene reflected no moral feeling against the use of aggressive warfare as an instrument of national policy. He personally struggled to retain his position. By the time he lost it he had already completed his task in the conspiracy, namely, to provide Hitler and his colleagues with the physical means and economic planning necessary to launch and maintain the aggression. We do not believe that, having prepared the Wehrmacht for assault upon the world, he should now be permitted to find refuge in his loss of power before the blow was struck.

This concludes our case against the Defendant Schacht, and Lieutenant Meltzer follows me with the presentation of the American case against the Defendant Funk.

LIEUTENANT (j. g.) BERNHARD D. MELTZER (Assistant Trial Counsel for the United States): May it please the Tribunal, the documents bearing upon Defendant Funk's responsibility have been assembled in a document book marked "HH," which has been filed with the Tribunal and has also been made available to Defense Counsel. The same is true of the brief. The documents have been arranged in the book in the order of their presentation. Moreover, to facilitate reference, the pages of the document book have been numbered consecutively in red. I wish to acknowledge the invaluable collaboration of Mr. Sidney Jacoby, who sits to my right, in the selection and analysis of these documents.

We propose to submit evidence concerning five phases of Defendant Funk's participation in the conspiracy:

First, his contribution to the Nazi seizure of power; second, his role in the Propaganda Ministry and in the related agencies and his responsibility for the activities of that ministry; third, his responsibility for the unrelenting elimination of Jews, first from the so-called cultural professions and then from the entire German economy; fourth, his collaboration in the paramount Nazi task to which all other tasks were subordinated—preparation for aggressive war; and finally, we propose to mention briefly the evidence concerning his active participation in the waging of aggressive war.

We turn now to the evidence showing that Defendant Funk actively promoted the conspirators' accession to power and their consolidation of control over Germany. Soon after he joined the Nazi Party in 1931 Defendant Funk began to hold important positions, first within the Party itself and then within the Nazi Government. Funk's positions have, in the main, been listed in Document Number 3533-PS, which is a statement signed by both Defendant Funk and his counsel. This document has been made available in the four working languages of these proceedings, and a copy in the appropriate language should be available in each of Your Honors' document books. It is accordingly requested that this document, which is Exhibit Number USA-651, be received into evidence without the necessity of its being read in its entirety.

Your Honors will observe that there are some deletions and reservations after some of the items listed in Document Number 3533-PS. These were inserted by Defendant Funk. The words which he wished deleted are enclosed in parentheses. His comments are underscored and followed by asterisks.

We wished to avoid troubling the Tribunal with a detailed discussion of all these contested points. Accordingly, we collected in Document 3563-PS relevant excerpts from certain German publications. This document has also been made available in the four working languages. Moreover, we submit that the Tribunal can

properly take judicial notice of the publications referred to in the document. However, in order to facilitate reference, we request that it be received in evidence as Exhibit Number USA-652.

In connection with Item "b" on the top of Page 1 of Document Number 3533-PS—Your Honors will find that on Page 1 of the document—Your Honors will observe that Defendant Funk has in effect denied that he was Hitler's personal economic adviser in the 1930's. However, the excerpts from the four German publications set forth on Pages 1 and 2 of Document Number 3563-PS directly contradict this denial.

We submit that it will be clear from the documents just referred to that Defendant Funk, soon after he joined the Party, began to operate as one of the Nazi inner circle. Moreover, as a Party economic theorist during its critical days in 1932, he made a significant contribution to its drive for mass support by drafting its economic slogans. In this connection I would refer to Document 3505-PS, which is a biography entitled, in the English translation, *Walter Funk—A Life for Economy.* This biography was written by one Oestreich in German and published by the Central Publishing House of the Nazi Party. I offer this document in evidence as Exhibit Number USA-653. I wish to quote now from Page 1 of the translation of this document, the center of the page. The corresponding page of the German document is Page 81:

> "In 1931 he"—that is, Funk—"became a member of the Reichstag. A document of his activity at the time is the 'Economic Construction Program of the NSDAP' which was formulated by him in the second half of the year 1932. It received the approval of Adolf Hitler and was declared binding for all Gau leaders, speakers on the subject, and Gau advisers on the subject and others of the Party."

Thus Defendant Funk's slogans became the economic gospel for the Party organizers and spellbinders.

Defendant Funk, however, was much more than one of the Nazi Party's economic theorists; he was also involved in the highly practical work of soliciting campaign contributions for the Party. As liaison man between the Party and the large German industrialists he helped place the industrialists' financial and political support behind Hitler. Defendant Funk, in an interrogation conducted on 4 June 1945, admitted that he helped finance the highly critical campaign of 1932. I offer in evidence Document Number 2828-PS as Exhibit Number USA-654, and I quote from the bottom of Page 43 . . .

THE PRESIDENT: Lieutenant Meltzer, isn't this really all cumulative and detailed evidence to support what the Defendant

Funk has already agreed with reference to his office? On Page 1 you have there the admission that he was a member of the Nazi Party, chief of the division of the Central Nazi Party, chairman of the committee of the Nazi Party on economic policy, and then it goes on from A to U with views of the various offices which he held and which he admits he held. But surely to go into the details of those positions is unnecessary.

LT. MELTZER: If Your Honor pleases, the admission of the various positions listed do not, in our judgment, indicate in any way Defendant Funk's participation in the fund-raising for the Nazi Party.

THE PRESIDENT: The fund-raising?

LT. MELTZER: The fund-raising. Now, it is a possible inference from those positions that he did engage in the solicitation of campaign contributions. However, it did seem to us relevant to mention most briefly direct evidence of that aspect of his activity.

THE PRESIDENT: Very well, if you say there is nothing in these offices which covered the matter you are going to deal with; well and good.

LT. MELTZER: Defendant Funk, in an interrogation conducted on 4 June 1945, admitted, as I said a minute ago, that he helped to finance this highly critical campaign.

THE PRESIDENT: You see, Lieutenant Meltzer, the heading that you have so conveniently given to us is that he contributed to the seizure of power. Well now, nearly every one of the headings A to U on Page 1, which he admits, is evidence that he contributed to seizure of power. Is it your object to propose that he also helped to raise funds? The contribution to the seizure of power is not in itself a crime; it is only a step.

LT. MELTZER: Very well, Your Honor. There is one aspect, however, of his activity in that regard which I should like to mention; that is, in connection with his fund-raising activities, he was present at a meeting in Berlin early in 1933.

I am referring to the document which records what went on in that meeting in order to point out that in the course of the meeting Hitler and Göring submitted an exposition of certain basic elements of the Nazi program. The reference to this meeting is found in Document 2828-PS, which Your Honors will find on Page 28 of the document book. I wish to quote the following question and answer:

"Q: 'About 1933, we have been informed, certain industrialists attended a meeting in the home of Göring before the election in March. Do you know anything about this?'

"A: 'I was at the meeting. Money was not demanded by Göring but by Schacht. Hitler left the room, then Schacht made a speech asking for money for the election. I was there as an impartial observer, since I was friendly with the industrialists.'"

The character and importance of Funk's work with the large industrialists is emphasized in the biography of Funk, which I referred to earlier, and I will simply invite Your Honors' attention to the relevant pages of that book, which are 83 and 84.

THE PRESIDENT: I don't understand why you read that passage. If you wanted to show that he was at the meeting, it would be merely sufficient to say that he was at the meeting. I don't think those two sentences that you read help us in the very least.

LT. MELTZER: If the Tribunal please, those two sentences do not refer to the meeting. Those two sentences refer to the biography which sums up the Defendant Funk's general contribution to the Nazi accession to power and I thought it might be of interest to the Tribunal to see the attitude of a German writer on this aspect of the defendant's career.

THE PRESIDENT: It seems to me you referred to the meeting.

LT. MELTZER: I was referring Your Honors to Pages 32 and 33 of the document book, and to clarify this point may I read briefly from the biography:

"No less important than Funk's accomplishments in the programmatic field in the years 1931 and 1932 was his activity at that time as the Führer's liaison man to the leading men of the German industry, trade, commerce, and finance. On the basis of his past work his personal relations to the German economic leaders were broad and far-reaching. He was now able to enlist them in the service of Adolf Hitler and not only to answer their questions authoritatively but to convince them and win their backing for the Party. At that time that was terribly important work; every success achieved meant a moral, political, and economic strengthening of the vitality of the Party and contributed toward destroying the prejudice that National Socialism is merely a party of class hatred and class struggle."

THE PRESIDENT: Again, I don't see that that has helped the Tribunal in the least.

LT. MELTZER: After Funk had helped Hitler become Chancellor, as Press Chief of the German Government, he participated in the early Cabinet meetings, in the course of which the conspirators

planned the strategy by which they would secure the passage of the Presidential Emergency Decree, which was passed on 24 March 1933. Funk's presence at these meetings is revealed by Document 2962-PS which has already been received in evidence and by Document Number 2963-PS, offered as Exhibit Number USA-656. Your Honors will recall that this decree marked the real seizure of political power in Germany.

Soon after this the Defendant Funk assumed an important role in the Ministry of Propaganda. The record shows that the Ministry became one of the most important and vicious of Nazi institutions and that propaganda was fundamental to the achievement of the Nazi program within Germany and outside of Germany. We do not propose to review those matters to you but rather to present evidence showing, as we have said, that the Defendant Funk took a significant part in the propaganda operations.

The Ministry was established on 13 March 1933, with Goebbels as Chief and Defendant Funk as undersecretary, second in command.

As undersecretary Defendant Funk was not only Goebbels' chief aide but was also the organizer of the large and complex propaganda machine. I wish to offer in evidence Document Number 3501-PS, which will be found on Page 47 of your document book as Exhibit Number USA-657. This document is an affidavit signed on 19 December 1945 by Max Amann, who held the position of Reich Leader of the Press and President of the Reich Press Chamber. I should like to read the second sentence of the first paragraph and the entire second paragraph:

> "In carrying out my duties and responsibilities I became familiar with the operation and the organization of the Reich Ministry of Propaganda and Enlightenment. Funk was the soul of the Ministry, and without him Goebbels could not have built it up. Goebbels once stated to me that Funk was his 'most efficient man.' Funk exercised comprehensive control over all of the media of expression in Germany; over the press, the theater, radio, and music. As Press Chief of the Government and later as undersecretary of the Ministry, Funk held daily meetings with the Führer and a daily press conference in the course of which he issued the directives governing the materials to be published by the German press."

In addition to his position as undersecretary, Funk had many other important jobs in the Propaganda Ministry and in its subordinate agencies. These positions have already been listed in Document 3533-PS. I wish, however, to refer in particular to Funk's position as vice-president of the Reich Chamber of Culture. This

position was, of course, related to his functions in the Propaganda Ministry.

In his dual capacity he directly promoted two vital and related Nazi policies. The first was the regimentation of all creative activities in the interests of Nazi political and military objectives. The second was the complete elimination of Jews and dissidents from the so-called cultural professions. A full discussion of the methods by which these policies were effectuated has been included in the brief which was submitted as part of Document Book E. Accordingly, we will not go into that matter now unless the Tribunal wishes us.

In view of the Defendant Funk's major role in the Propaganda Ministry, it is natural to find Nazi writers stressing his responsibility for the Nazi perversion of culture. In this connection, I will simply invite the Tribunal's attention to Pages 94 and 95 of Oestreich's biography, which has already been referred to.

After Defendant Funk left the Ministry of Propaganda and became Minister of Economics in 1938, he continued to advance the anti-Jewish program. For example, on 14 June 1938 he signed a decree providing for the registration of Jewish enterprises. This decree, which became the foundation for the ruthless economic persecution which followed, is found in the *Reichsgesetzblatt*, 1938, Part I, Page 627. It is requested that the Tribunal take judicial notice of this reference to the *Reichsgesetzblatt* and all subsequent references. May I add that the brief on Defendant Funk gives the document numbers of translations of decrees and other German publications of which the Tribunal will be requested to take judicial notice.

THE PRESIDENT: Would that be a convenient time to break off?

LT. MELTZER: Yes, Your Honor.

THE PRESIDENT: Before we do so, Sir David Maxwell-Fyfe, I see that one of the counsel, Colonel Phillimore, I think, is proposing to call certain witnesses. The Tribunal would like to know who those witnesses are and what subject their evidence is going to deal with.

SIR DAVID MAXWELL-FYFE: Would the Tribunal like to know now? I would like to let them know, if it is convenient.

THE PRESIDENT: If you could, it would be convenient now.

SIR DAVID MAXWELL-FYFE: Yes. The first witness is Korvettenkapitän Moehle, who was a captain on Defendant Dönitz' staff; and he will prove the passing on the Dönitz order of 17 September 1942. I think that is the main point that he deals with. I

think he deals also with the destruction of some rescue ships, but that is the main point.

The second witness is Lieutenant Heisig. He will deal primarily with lectures of the Defendant Dönitz in which he advocated the destruction of the crews of merchant ships. That is the general effect of the evidence.

THE PRESIDENT: Thank you.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

THE PRESIDENT: Lieutenant Meltzer, are you intending to call any witnesses this afternoon?

LT. MELTZER: No, Sir. There is another member of the Prosecution, Sir, who I believe is intending to call a witness—Mr. Dodd.

THE PRESIDENT: In connection with the case against Funk?

LT. MELTZER: No, Your Honor.

THE PRESIDENT: Or in connection with the case against somebody else?

LT. MELTZER: Yes, Sir.

THE PRESIDENT: Who is it in connection with, Raeder?

LT. MELTZER: I believe Mr. Dodd might offer...

THE PRESIDENT: Raeder, is it?

LT. MELTZER: No, Sir. Mr. Dodd might offer a better explanation than I on the purpose of calling the witness.

THE PRESIDENT: Mr. Dodd?

MR. THOMAS J. DODD (Executive Trial Counsel for the United States): Yes, Sir. Your Honor, the witness is offered in connection with the Defendants Rosenberg, Funk, Frick, Sauckel, and Kaltenbrunner.

THE PRESIDENT: I see. The evidence relates to concentration camps, does it?

MR. DODD: It does, Your Honor.

THE PRESIDENT: I see.

MR. DODD: This witness would have been called at the time that we presented the other proof, except for the fact that he was before the military court at Dachau at that time and was not available.

THE PRESIDENT: I see; thank you.

LT. MELTZER: May it please the Tribunal, before we adjourned we were dealing with Defendant Funk's role in the economic persecution of the Jews. As Your Honors will recall, in November of 1938 the death of Vom Rath in Paris was exploited by the Nazis as a pretext for intensifying the persecution of the Jews. The new policy was directed at the complete elimination of the Jews from the economic life of Germany. The evidence we will offer will show that Defendant Funk took a significant part in both the formulation and execution of that policy. In this connection I would refer the Tribunal to Document Number 1816-PS which is already in the Record. This document is a report of the meeting on the

Jewish question. It will be found, Your Honor, on Page 52 of the document book. This meeting was held under Göring's chairmanship on 12 November 1938. In opening the meeting, Defendant Göring stated—and I quote now from Page 1, Paragraph 1, of the translation; the corresponding page of the German document is also Page 1:

"... today's meeting is of a decisive nature. I have received a letter written by the chief of staff of the Führer's Deputy, Bormann, on the Führer's orders directing that the Jewish question be now, once and for all, co-ordinated and solved one way or another."

Defendant Funk came to this meeting well prepared. He had a law already drafted which he submitted with the following explanation—I quote again from Document 1816-PS, Page 15:

"I have prepared a law for this case which provides that as from 1 January 1939 Jews shall be prohibited from operating retail stores and mail-order establishments as well as independent workshops. They shall be further prohibited from hiring employees for that purpose or offering any goods on the market. Wherever a Jewish shop is operated, it is to be closed by the police. From 1 January 1939 a Jew can no longer operate a business in the sense of the law for the regulation of national labor of 20 January 1934."

I believe we may omit the rest. It is all in the same tenor.

THE PRESIDENT: Yes.

LT. MELTZER: The substance of Defendant Funk's draft law promptly found its way into the *Reichsgesetzblatt*. On 12 November 1938 Defendant Göring signed a decree entitled, and I quote, "... for the Elimination of Jews from German Economic Life," and in Section 4 he authorized Defendant Funk to implement the provisions of the decree by issuing the necessary rules and regulations. An examination of the provisions of this decree, which is set forth in the *Reichsgesetzblatt* 1938, Part I, Page 1580, will reveal how well it deserved its title "... for the Elimination of the Jews from German Economic Life."

Soon after the passage of the decree of 12 November, Defendant Funk delivered a speech on the Jewish question. He made it clear that the program of economic persecution was part of the larger program of extermination and he boasted of the fact that the new program insured the complete elimination of Jews from the German economy. I offer into evidence Document Number 3545-PS as Exhibit USA-659. This document, which is found on Page 76 of the document book, is a certified photostatic copy of Page 2 of the *Frankfurter Zeitung* of 17 November 1938. I quote a very brief portion of that speech:

"State and economy constitute a single unit. They must be directed according to the same principles. The best proof of this is given by the most recent development of the Jewish problem in Germany. One cannot exclude the Jews from political life and yet let them live and work in the economic sphere."

I shall omit the rest, with the request that the Tribunal take judicial notice of this reprint from the German newspaper, the *Frankfurter Zeitung.*

I wish, however, to refer to only one more decree, signed by Defendant Funk himself. On the 3rd of December 1938 he signed a decree which imposed additional and drastic economic disabilities upon the Jews and subjected their property to confiscation and forced liquidation. This decree is set forth in the *Reichsgesetzblatt* 1938, Part I, Page 1709. Defendant Funk himself has admitted and deplored his responsibility for the economic persecution of the Jews. I offer into evidence Document Number 3544-PS, as Exhibit USA-660. This document, which is the last document in connection with this phase of the case, is an interrogation of Defendant Funk dated 22 October 1945. Your Honors will find it on Pages 102 and 103 of the document book. I wish to quote from Pages 26 to 27 of the interrogation. The corresponding page of the German translation is Page 21. Although I propose to quote enough to place Defendant Funk's statements in their proper context, I do not, of course, intend to give any credence to his attempts at self-justification:

"Q: 'All the decrees excluding the Jews from industry were yours, were they not?'"

Now, omitting the first nine lines of the reply:

"A: 'As far as my participation in this Jewish affair is concerned, that was my responsibility, and I regretted later on that I ever participated. The Party had always brought pressure to bear on me to make me agree to the confiscation of Jewish property, and I refused repeatedly. But later on, when the anti-Jewish measures and the brutality against Jews were being carried out with full force, something legal had to be done to prevent the looting and confiscation of the whole of Jewish property.'

"Q: 'You knew that the looting and all that was done at the instigation of the Party, didn't you?'

"Here Defendant Funk wept and answered:

"'That is when I should have resigned, in 1938. I am guilty. I am guilty. I admit that I am a guilty party here.'"

In the Propaganda Ministry, Defendant Funk, as we have seen, helped solidify the German people in favor of war. When he

moved on to his position as Minister of Economics, and to other positions which will appear, he used his talents even more directly for the conspirators' main task: preparation for war. Immediately before Defendant Funk took over the Ministry of Economics from Defendant Schacht in 1938, there was a major reorganization of that ministry's functions which integrated it with the Four Year Plan as the supreme command of the German military economy. This reorganization was effected by a decree, dated 4 February 1938, signed by Göring as Commissioner of the Four Year Plan. This decree is set forth in an official monthly bulletin issued by Göring and entitled, in the English translation, *The Four Year Plan,* Volume II, 1938, Page 105. It is requested that the Tribunal take judicial notice of this publication.

At this point I would simply note that that decree makes it clear that Defendant Funk assumed a critical role in the task of economic mobilization during a decisive period. Indeed, in 1938 he was directly charged with the task of preparing the German economy for war. By a secret decree he was made Plenipotentiary General for Economics and assumed the duties which once had been discharged by Defendant Schacht. In this connection I refer to Document 2194-PS, which has already been placed in evidence. This document, which is found on Page 111 of Your Honors' document books, consists of a letter dated 6 September 1939, and that letter transmitted a copy of the Reich Defense Law of 4 September 1938. It is this enclosure that we wish to deal with now. I wish to quote from Page 4 of the translation, Paragraphs 2 to 4:

> "It is the task of the GBW"—that is the Plenipotentiary General for Economics—"to put all economic forces into the service of the Reich defense and to safeguard economically the life of the German nation. To him are subordinated: the Reich Minister of Economics, the Reich Minister of Food and Agriculture, the Reich Minister of Labor..." and so on.—
>
> "He is furthermore responsible for directing the financing of the Reich defense within the realm of the Reich Finance Ministry and the Reichsbank."
>
> To quote one more paragraph:
>
> "The GBW must fulfill the demands of the OKW which are of essential importance for the Armed Forces and must ensure the economic conditions necessary for the production of the armament industry directly managed by the OKW, according to the requirements of the latter."

This law, in essence, re-enacted the provisions previously passed in the Reich Defense Law of 1935, and I will not trouble the Tribunal with further reading. I do wish to note, however, that the law was, at the specific direction of Hitler, kept secret and that

it was signed by Defendant Funk, among others, as Plenipotentiary General for Economics. Your Honors will find Defendant Funk's signature on the next to the last page of the document, and I invite your attention to the names of his co-signers.

Defendant Funk, in a speech which he delivered on 14 October 1939, explained how, as Plenipotentiary General for Economics, he had for a year and a half prior to the launching of the aggression against Poland, advanced Germany's economic preparations for war. I offer into evidence Document Number 3324-PS as Exhibit USA-661. This document is a German book by Berndt and Von Wedel entitled, in the English translation, *Germany in the Fight.* That book reprints the defendant's speech. I quote now from Page 2 of the translation of Document Number 3324-PS, which is found on Page 116 of the document book. The translation of this speech is somewhat awkward, and with the Tribunal's permission I would rephrase it somewhat without changing its substance in the slightest.

> "Although all economic and financial departments were harnessed to the task of the Four Year Plan under the leadership of General Field Marshal Göring, Germany's economic preparation for war was also secretly advanced in another sector for well over a year, namely, through the formation of a national guiding apparatus for special war economy tasks which would have to be accomplished the moment that war became a fact. For this work all economic departments were combined into one administrative authority, the Plenipotentiary General for Economics, to which position the Führer appointed me one and a half years ago."

THE PRESIDENT: What was the date of that?

LT. MELTZER: The date of that speech, Sir, is 14 October 1939.

In his dual capacity as Plenipotentiary General for Economics and Minister of Economics, Defendant Funk was naturally advised of the requirements which the conspirators' program of aggression imposed on the German economy. In this connection I would invite the Tribunal's attention to Document Number 1301-PS, which is already in evidence. As Your Honors will recall, this document is a top-secret report of the conference held in Defendant Göring's office on 14 October 1938. Your Honors will find it on Page 142 of the document book. I shall simply summarize the relevant portions of this document.

During the conference Göring referred to the world situation and to Hitler's directive to organize a gigantic armament program. He thereupon directed the Ministry of Economics to increase exports in order to obtain the foreign exchange necessary for stepping up

armament. He added, as Your Honors will recall, that the Luftwaffe must be increased fivefold, that the Navy should arm more quickly, and that the Army should accelerate the production of weapons for attack. Defendant Göring's words directed at Funk, among others, were the words of a man already at war; and his emphasis on quintupling the Air Force and on weapons for attack was that of a man waging aggressive war.

After Schacht's departure Funk was a key figure in the preparation of plans to finance the war. This was natural, since Defendant Funk after 1939 occupied three positions crucial to war finance. Two we have already named: Minister of Economics and Plenipotentiary General for Economics. In addition, he was President of the Reichsbank.

Funk's role in war financing is illustrated by Document Number 3562-PS, which I now offer in evidence as Exhibit USA-662. This document was found in the captured files of the Reich Ministry of Economics. It consists, in part, of a letter from the Plenipotentiary General for Economics, signed on his behalf by Dr. Posse. The letter is dated 1 June 1939 and encloses the minutes of a conference concerning the financing of the war which was held under the chairmanship of Funk's undersecretary in the Ministry of Economics, Dr. Landfried. A copy of the document which I have offered into evidence bears a marginal note on Page 1 in the bottom left-hand corner, dated 5 June, stating, and I quote: "To be shown to the Minister,"—that is, Funk—"for his information."

During the course of the meeting, which was attended by 12 officials, five of whom were directly responsible to Defendant Funk in his various capacities, the conferees discussed a memorandum regarding war finance which had been prepared by the Plenipotentiary General for Economics on May 9, 1939. I wish to quote briefly from Page 2 of the English translation, which is found on Page 153 of Your Honors' document book:

> "Then a report was made of the contents of the 'Notes on the question of Internal Financing of War' of 9 May of this year, in which the figures given to me by the Reich Minister of Finance were also discussed. It was pointed out that the Plenipotentiary General for Economics is primarily interested in introducing into the legislation for war finance the idea of financing war expenditures by future revenues to be expected after the war."

And, if I may quote another brief excerpt from this important memorandum, which is found on Page 2 of the English translation, Page 153 of your document books:

> "State Secretary Neumann first submitted for discussion the question of whether, in case of war, production would

be able to meet, to the extent supposed, the demands of the Armed Forces, especially if the demands of the Armed Forces, as stated in the above report, should increase to approximately 14,000 millions in the first 3 months of war. He stated that if the production potential of the present Reich territory is taken as a basis he doubts the possibility of such an increase."

It is plain then that Defendant Funk exercised comprehensive authority over large areas of the German economy whose proper organization and direction were critical to effective war preparation. The once powerful military machine which rested on the foundation of thorough economic preparation was a tribute to the contribution which Defendant Funk had made to Nazi aggression.

And Funk made this contribution with full knowledge of the plans for military aggression. A compelling inference of such knowledge would arise from the combination of several factors: From Funk's long and intimate association with the Nazi inner circle; from the very nature of his official functions; from the war-dominated setting of Nazi Germany; from the fact that force and the threat of force had become the primary and the open instruments of German foreign policy. And the final element in weighing the question of Defendant Funk's knowledge is, of course, the fact that, at the same time that Defendant Funk was making economic preparation, specific plans for aggression were being formulated—plans which were carried out and plans which could be effectively carried out only if they were synchronized with the complementary economic measures.

The conclusion concerning Defendant Funk's knowledge is reinforced beyond any question by considering, in the light of the factors described above, the more specific and direct evidence which has already been placed into the Record. We have seen from Document 1760-PS that Defendant Funk had told Mr. Messersmith that the absorption of Austria by Germany was a political and economic necessity, and that it would be achieved by whatever means were necessary. We have already referred to Document Number 1301-PS, in which Defendant Göring laid down directives which could be understood only as directives to prepare the economic basis for aggression. And Document Number 3562-PS has revealed that Defendant Funk was making detailed plans for financing the war, that is, of course, a particular war, the war against Poland. In this connection I wish to refer to another vital piece of evidence which has already been introduced in the Record. It is the letter dated 25 August 1939 which Defendant Funk wrote to Hitler. In that letter, as Your Honors will recall, Defendant Funk expressed his gratitude at being able to experience those world-shaking times

and to contribute to those tremendous events. And he thanked Hitler for approving his proposals designed to prepare the German economy for the war.

Moreover, the Record contains evidence showing that Defendant Funk, both personally and through his representatives, participated in the economic planning which preceded the military aggression against the Soviet Union. I would refer the Tribunal to Document 1039-PS, which revealed that in April of 1941 Defendant Rosenberg, who had been appointed deputy for the centralized treatment of problems related to the occupation of the Eastern territories, that is, the Soviet Union, discussed with Defendant Funk the economic problems which would arise when the plans for aggression in the East matured. And Document 1039-PS also reveals that Defendant Funk appointed one Dr. Schlotterer as his deputy to collaborate with Rosenberg in connection with the exploitation of the Eastern territories and that Schlotterer met with Defendant Rosenberg almost daily.

It is clear, then, that Defendant Funk participated in every phase of the conspirators' program, from their seizure of power to their final defeat. Throughout he worked effectively, if sometimes more quietly than others, on behalf of the Nazi program, a program which from the very beginning he knew contemplated the use of ruthless terror and force within Germany and, if necessary, outside of Germany. He bears, we submit, a special, a direct, and a heavy responsibility for the commission of Crimes against Humanity, Crimes against Peace, and War Crimes. The Record makes it clear, if we may summarize the evidence, that by virtue of his activities in the Ministry of Propaganda and in the Ministry of Economics he is responsible for stimulating and engaging in the unrelenting persecution of the Jews and other minorities, for psychologically mobilizing the German people for aggressive war, and for weakening the willingness and capacity of the conspirators' intended victims to resist aggression. It is also clear, we submit, that Defendant Funk, with full knowledge of the conspirators' purposes, in his capacity as Minister of Economics, President of the Reichsbank, and Plenipotentiary General for Economics, actively participated in the mobilization of the German economy for aggression. In these capacities and as a member of the Ministerial Council for Defense and the Central Planning Board he also participated in the waging of aggressive war. Moreover, by virtue of his membership in the Central Planning Board, which, as Your Honors will recall from Mr. Dodd's presentation, formulated and directed the program for the enslavement, the exploitation, and degradation of millions of foreign workers, Defendant Funk also shares special responsibility for the Nazi slave-labor program.

The French Prosecution, I am informed, will deal with this matter in greater detail. Moreover, the French and Soviet Prosecution will submit evidence showing that Defendant Funk actively participated in the program for the criminal looting of the resources of occupied territories.

MR. DODD: May it please the Tribunal, we would like to call at this time the witness, Dr. Franz Blaha.

[The witness, Blaha, took the stand.]

THE PRESIDENT *[To the witness]*: Is your name Franz Blaha?

DR. FRANZ BLAHA (Witness) *[In Czech.]*: Dr. Franz Blaha.

THE PRESIDENT: Will you repeat this oath: "I swear by God—the Almighty and Omniscient—that I will speak the truth, the pure truth—and will withhold and add nothing."

[The witness repeated the oath.]

THE PRESIDENT: You can sit down if you wish.

MR. DODD: You are Dr. Franz Blaha, a native and a citizen of Czechoslovakia, are you not?

BLAHA: *[In Czech.]* Yes.

MR. DODD: I understand that you are able to speak German, and for technical reasons I suggest that we conduct this examination in German, although I know your native tongue is Czech; is that right?

BLAHA: *[In Czech.]* In the interest of the case I am willing to testify in German for the following reasons: 1. For the past 7 years, which are the subject of my testimony, I have lived exclusively in German surroundings; 2. A large number of special and technical expressions relating to life in and about the concentration camps are purely German inventions, and no appropriate equivalent for them in any other language can be found.

MR. DODD: Dr. Blaha, by education and training and profession you are a doctor of medicine?

BLAHA: *[In German.]* Yes.

MR. DODD: And in 1939 you were the head of a hospital in Czechoslovakia?

BLAHA: Yes.

MR. DODD: You were arrested, were you not, by the Germans in 1939 after they occupied Czechoslovakia?

BLAHA: Yes.

MR. DODD: And were you confined in various prisons between 1939 and 1941?

BLAHA: Yes.

MR. DODD: From 1941 to April of 1945 you were confined at Dachau Concentration Camp?

BLAHA: Yes, until the end.

MR. DODD: When that camp was liberated by the Allied Forces?

BLAHA: Yes.

MR. DODD: You executed an affidavit in Nuremberg on the 9th day of January of this year, did you not?

BLAHA: Yes.

MR. DODD: This affidavit, if it please the Tribunal, bears the Document Number 3249-PS, and I wish to offer it at this time. It is Exhibit USA-663. I feel that we can reduce the extent of this interrogation by approximately three-fourths through the submission of this affidavit and I should like to read it. It will take much less time to read this affidavit than it would to go through it in question and answer form and it covers a large part of what we expect to elicit from this witness.

THE PRESIDENT: Very well.

MR. DODD: I wouldn't have read it if we had had time to have a Russian and French translation, but unfortunately that wasn't possible in the few days we had.

"I, Franz Blaha, being duly sworn, depose and state as follows:

"1. I studied medicine in Prague, Vienna, Strasbourg, and Paris and received my diploma in 1920. From 1920 to 1926 I was a clinical assistant. In 1926 I became chief physician of the Iglau Hospital in Moravia, Czechoslovakia. I held this position until 1939 when the Germans entered Czechoslovakia and I was seized as a hostage and held a prisoner for co-operating with the Czech Government. I was sent as a prisoner to the Dachau Concentration Camp in April 1941 and remained there until the liberation of the camp in April 1945. Until July 1941 I worked in a punishment company. After that I was sent to the hospital and subjected to the experiments in typhoid being conducted by Dr. Muermelstadt. After that I was to be made the subject of an experimental operation and succeeded in avoiding this only by admitting that I was a physician. If this had been known before, I would have suffered, because intellectuals were treated very harshly in the punishment company. In October 1941 I was sent to work in the herb plantation and later in the laboratory for processing herbs. In June 1942 I was taken into the hospital as a surgeon. Shortly afterwards I was directed to perform a stomach operation on 20 healthy

prisoners. Because I would not do this I was transferred to the autopsy room where I stayed until April 1945. While there I performed approximately 7,000 autopsies. In all, 12,000 autopsies were performed under my direction.

"2. From the middle of 1941 to the end of 1942 some 500 operations on healthy prisoners were performed. These were for the instructions of the SS medical students and doctors and included operations on the stomach, gall bladder, and throat. These were performed by students and doctors of only 2 years' training, although they were very dangerous and difficult. Ordinarily they would not have been done except by surgeons with at least 4 years' surgical practice. Many prisoners died on the operating table and many others from later complications. I performed autopsies on all of these bodies. The doctors who supervised these operations were Lang, Muermelstadt, Wolter, Ramsauer, and Kahr. Standartenführer Dr. Lolling frequently witnessed these operations.

"3. During my time at Dachau I was familiar with many kinds of medical experiments carried on there on human victims. These persons were never volunteers but were forced to submit to such acts. Malaria experiments on about 1,200 people were conducted by Dr. Klaus Schilling between 1941 and 1945. Schilling was personally ordered by Himmler to conduct these experiments. The victims were either bitten by mosquitoes or given injections of malaria sporozoites taken from mosquitoes. Different kinds of treatment were applied including quinine, pyrifer, neosalvarsan, antipyrin, pyramidon, and a drug called 2516 Behring. I performed autopsies on the bodies of people who died from these malaria experiments. Thirty to 40 died from the malaria itself. Three hundred to four hundred died later from diseases which were fatal because of the physical condition resulting from the malaria attacks. In addition there were deaths resulting from poisoning due to overdoses of neosalvarsan and pyramidon. Dr. Schilling was present at my autopsies on the bodies of his patients.

"4. In 1942 and 1943 experiments on human beings were conducted by Dr. Sigmund Rascher to determine the effects of changing air pressure. As many as 25 persons were put at one time into a specially constructed van in which pressure could be increased or decreased as required. The purpose was to find out the effects on human beings of high altitude and of rapid descents by parachute. Through a window in the van I have seen the people lying on the floor of the van.

Most of the prisoners used died from these experiments, from internal hemorrhage of the lungs or brain. The survivors coughed blood when taken out. It was my job to take the bodies out and as soon as they were found to be dead to send the internal organs to Munich for study. About 400 to 500 prisoners were experimented on. The survivors were sent to invalid blocks and liquidated shortly afterwards. Only a few escaped.

"5. Rascher also conducted experiments on the effect of cold water on human beings. This was done to find a way for reviving airmen who had fallen into the ocean. The subject was placed in ice cold water and kept there until he was unconscious. Blood was taken from his neck and tested each time his body temperature dropped one degree. This drop was determined by a rectal thermometer. Urine was also periodically tested. Some men stood it as long as 24 to 36 hours. The lowest body temperature reached was 19 degrees centigrade, but most men died at 25 or 26 degrees. When the men were removed from the ice water attempts were made to revive them by artificial sunshine, with hot water, by electro-therapy, or by animal warmth. For this last experiment prostitutes were used and the body of the unconscious man was placed between the bodies of two women. Himmler was present at one such experiment. I could see him from one of the windows in the street between the blocks. I have personally been present at some of these cold water experiments when Rascher was absent, and I have seen notes and diagrams on them in Rascher's laboratory. About 300 persons were used in these experiments. The majority died. Of those who survived, many became mentally deranged. Those who did not die were sent to invalid blocks and were killed just as were the victims of the air pressure experiments. I know only two who survived, a Yugoslav and a Pole, both of whom are mental cases.

"6. Liver puncture experiments were performed by Dr. Brachtl on healthy people and on people who had diseases of the stomach and gall bladder. For this purpose a needle was jabbed into the liver of a person and a small piece of the liver was extracted. No anaesthetic was used. The experiment is very painful and often had serious results, as the stomach or large blood vessels were often punctured, resulting in hemorrhage. Many persons died of these tests for which Polish, Russian, Czech, and German prisoners were employed. Altogether about 175 people were subjected to these experiments.

"7. Phlegmone experiments were conducted by Dr. Schütz, Dr. Babor, Dr. Kieselwetter and Professor Lauer. Forty healthy men were used at a time, of which twenty were given intramuscular and twenty intravenous injections of pus from diseased persons. All treatment was forbidden for 3 days, by which time serious inflammation and in many cases general blood poisoning had occurred. Then each group was divided again into groups of 10. Half were given chemical treatment with liquid and special pills every 10 minutes for 24 hours. The remainder were treated with sulfanamide and surgery. In some cases all the limbs were amputated. My autopsy also showed that the chemical treatment had been harmful and had even caused perforations of the stomach wall. For these experiments Polish, Czech, and Dutch priests were ordinarily used. Pain was intense in such experiments. Most of the 600 to 800 persons who were used finally died. Most of the others became permanent invalids and were later killed.

"8. In the fall of 1944 there were 60 to 80 persons who were subjected to salt water experiments. They were locked in a room and for 5 days were given nothing for food but salt water. During this time their urine, blood, and excrement were tested. None of these prisoners died, possibly because they received smuggled food from other prisoners. Hungarians and Gypsies were used for these experiments.

"9. It was common practice to remove the skin from dead prisoners. I was commanded to do this on many occasions. Dr. Rascher and Dr. Wolter in particular asked for this human skin from human backs and chests. It was chemically treated and placed in the sun to dry. After that it was cut into various sizes for use as saddles, riding breeches, gloves, house slippers, and ladies' handbags. Tattooed skin was especially valued by SS men. Russians, Poles, and other inmates were used in this way, but it was forbidden to cut out the skin of a German. This skin had to be from healthy prisoners and free from defects. Sometimes we did not have enough bodies with good skin and Rascher would say, 'All right, you will get the bodies.' The next day we would receive 20 or 30 bodies of young people. They would have been shot in the neck or struck on the head so that the skin would be uninjured. Also we frequently got requests for the skulls or skeletons of prisoners. In those cases we boiled the skull or the body. Then the soft parts were removed and the bones were bleached and dried and reassembled. In the case of skulls it was important to have a good set of teeth. When we got an

order for skulls from Oranienburg the SS men would say, 'We will try to get you some with good teeth.' So it was dangerous to have good skin or good teeth.

"10. Transports arrived frequently in Dachau from Struthof, Belsen, Auschwitz, Mauthausen and other camps. Many of these were 10 to 14 days on the way without water or food. On one transport which arrived in November 1942 I found evidence of cannibalism. The living persons had eaten the flesh from the dead bodies. Another transport arrived from Compiègne in France. Professor Limousin of Clermont-Ferrand who was later my assistant told me that there had been 2,000 persons on this transport when it started. There was food available but no water. Eight hundred died on the way and were thrown out. When it arrived after 12 days, more than 500 persons were dead on the train. Of the remainder most died shortly after arrival. I investigated this transport because the International Red Cross complained, and the SS men wanted a report that the deaths had been caused by fighting and rioting on the way. I dissected a number of bodies and found that they had died from suffocation and lack of water. It was mid-summer and 120 people had been packed into each car.

"11. In 1941 and 1942 we had in the camp what we called invalid transports. These were made up of people who were sick or for some reason incapable of working. We called them 'Himmelfahrt Commandos.' About 100 or 120 were ordered each week to go to the shower baths. There four people gave injections of phenol, evipan, or benzine, which soon caused death. After 1943 these invalids were sent to other camps for liquidation. I know that they were killed, because I saw the records and they were marked with a cross and the date that they left, which was the way that deaths were ordinarily recorded. This was shown on both the card index of the Camp Dachau and the records in the registry office of Dachau. One thousand to two thousand went away every 3 months, so there were about five thousand sent to death in this way in 1943, and the same in 1944. In April 1945 a Jewish transport was loaded at Dachau and was left standing on the railroad siding. The station was destroyed by bombing, and they could not leave. So they were just left there to die of starvation. They were not allowed to get off. When the camp was liberated they were all dead.

"12. Many executions by gas or shooting or injections took place right in the camp. The gas chamber was completed in 1944, and I was called by Dr. Rascher to examine the first

victims. Of the eight or nine persons in the chamber there were three still alive, and the remainder appeared to be dead. Their eyes were red, and their faces were swollen. Many prisoners were later killed in this way. Afterwards they were removed to the crematorium where I had to examine their teeth for gold. Teeth containing gold were extracted. Many prisoners who were sick were killed by injections while in the hospital. Some prisoners killed in the hospital came through to the autopsy room with no name or number on the tag which was usually tied to their big toe. Instead the tag said 'Do not dissect'. I performed autopsies on some of these and found that they were perfectly healthy but had died from injections. Sometimes prisoners were killed only because they had dysentery or vomited and gave the nurses too much trouble. Mental patients were liquidated by being led to the gas chamber and injected there or shot. Shooting was a common method of execution. Prisoners could be shot just outside the crematorium and carried in. I have seen people pushed into the ovens while they were still breathing and making sounds, although if they were too much alive they were usually hit on the head first.

"13. The principal executions about which I know from having examined the victims or supervised such examinations are as follows:

"In 1942 there were 5,000 to 6,000 Russians held in a separate camp inside Dachau. They were taken on foot to the military rifle range near the camp in groups of 500 or 600 and shot. Such groups left the camp about three times a week. At night we used to go out to bring the bodies back in carts and then examine them. In February 1944 about 40 Russian students arrived from Moosburg. I knew a few of the boys in the hospital. I examined their bodies after they were shot outside the crematory. In September 1944 a group of 94 high-ranking Russian officers were shot, including two military doctors who had been working with me in the hospital. I examined their bodies. In April 1945 a number of prominent people were shot who had been kept in the bunker. They included two French generals, whose names I cannot remember; but I recognized them from their uniform. I examined them after they were shot. In 1944 and 1945 a number of women were killed by hanging, shooting, and injections. I examined them and found that in many cases they were pregnant. In 1945, just before the camp was liberated, all 'Nacht und Nebel' prisoners were executed. These were prisoners who were forbidden to have any contact with the outside world. They

were kept in a special enclosure and were not allowed to send or receive any mail. There were 30 or 40, many of whom were sick. These were carried to the crematory on stretchers. I examined them and found they had all been shot in the neck.

"14. From 1941 on the camp was more and more overcrowded. In 1943 the hospital for prisoners was already overcrowded. In 1944 and in 1945 it was impossible to maintain any sort of sanitary conditions. Rooms which held 300 or 400 persons in 1942 were filled with 1,000 in 1943, and in the first quarter of 1945 with 2,000 or more. The rooms could not be cleaned because they were too crowded and there was no cleaning material. Baths were available only once a month. Latrine facilities were completely inadequate. Medicine was almost nonexistent. But I found after the camp was liberated that there was plenty of medicine in the SS hospital for all the camp, if it had been given to us for use. New arrivals at the camp were lined up out of doors for hours at a time. Sometimes they stood there from morning until night. It did not matter whether this was in the winter or in the summer. This occurred all through 1943, 1944, and the first quarter of 1945. I could see these formations from the window of the autopsy room. Many of the people who had to stand in the cold in this way became ill with pneumonia and died. I had several acquaintances who were killed in this manner during 1944 and 1945.

"In October 1944 a transport of Hungarians brought spotted fever into the camp, and an epidemic began. I examined many of the corpses from this transport and reported the situation to Dr. Hintermayer but was forbidden, on penalty of being shot, to mention that there was an epidemic in the camp. He said that it was sabotage, and that I was trying to have the camp quarantined so that the prisoners would not have to work in the armaments industry. No preventive measures were taken at all. New healthy arrivals were put into blocks where an epidemic was already present. Also infected persons were put into these blocks. The 30th block, for instance, died out completely three times. Only at Christmas, when the epidemic spread into the SS camp, was a quarantine established. Nevertheless, transports continued to arrive. We had 200 to 300 new typhus cases a day and about 100 deaths from typhus daily. In all we had 28,000 cases and 15,000 deaths. Apart from those that died from the disease my autopsies showed that many deaths were caused solely by malnutrition. Such deaths occurred in all the years from

1941 to 1945. They were mostly Italians, Russians, and Frenchmen. These people were just starved to death. At the time of death they weighed 50 to 60 pounds. Autopsies showed their internal organs had often shrunk to one-third of their normal size.

"The facts stated above are true. This declaration is made by me voluntarily and without compulsion. After reading over the statement I have signed and executed the same at Nuremberg, Germany, this 9th day of January 1946."* —Signed—"Dr. Franz Blaha.

"Subscribed and sworn to before me this 9th day of January 1946 at Nuremberg, Germany. 2d Lieutenant Daniel F. Margolies."

MR. DODD: *[Continuing the interrogation.]* Dr. Blaha, will you state whether or not visitors came to the camp of Dachau while you were there?

BLAHA: Very many visitors came to our camp so that it sometimes seemed to us that we were not confined in a camp but in an exhibition or a zoo. At times there was a visit or an excursion almost every day from schools, from different military, medical, and other institutions, and also many members of the Police, the SS, and the Armed Forces; also . . .

THE PRESIDENT: Will you pause so as to give the interpreter's words time to come through; do you understand?

BLAHA: Yes. Also some State personalities came to the camp. Regular inspections were made month by month by the Inspector General of Concentration Camps, Obergruppenführer Pohl; also by SS Reichsführer Professor Grawitz, Inspector of Experimental Stations; Standartenführer Dr. Lolling; and other personalities.

MR. DODD: The presiding Justice has suggested that you pause, and it would be helpful if you paused in the making of your answers so that the interpreters can complete their interpretation.

BLAHA: Yes.

MR. DODD: Are you able to state how long these visits lasted on an average?

BLAHA: That depended on the sort of visits being made. Some were inside for half an hour to an hour, some for 3 or 4 hours.

MR. DODD: Were there prominent Government people who visited the camp at any time while you were there?

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* The last paragraph of this affidavit appears in the English translation signed by Dr. Blaha bu not in the original German version.

BLAHA: While I was there many personalities came to our camp: Reichsführer Himmler came to Dachau several times and also was present at the experiments. I was present myself on these occasions. Other personalities also were there. I myself have seen three ministers of state, and from political prisoners who were Germans and therefore knew these people I heard that several other personages visited the camp. I also twice saw high-ranking Italian officers and once a Japanese officer.

MR. DODD: Do you remember the names of any of these prominent Government people, or do you remember more particularly who any of them were?

BLAHA: Besides Himmler there was Bormann; also Gauleiter Wagner; Gauleiter Giesler; State Ministers Frick, Rosenberg, Funk, Sauckel; also the General of Police Daluege; and others.

MR. DODD: Did these people whom you have just named take tours around the camp while you were there?

BLAHA: Generally the tour through the camp was so arranged that the visitors were first taken to the kitchen, then to the laundry, then to the hospital, that is, usually to the surgical station, then to the malaria station of Professor Schilling and the experimental station of Dr. Rascher. Then they proceeded to a few "blocks," particularly those of the German prisoners and sometimes they also visited the chapel, which, however, had been fitted up inside for German clergy only. Sometimes, too, various personalities were presented and introduced to the visitors. It was so arranged that always, first of all, a "green" professional criminal was selected and introduced as a murderer; then the Mayor of Vienna, Dr. Schmitz, was usually presented as the second one; then a high-ranking Czech officer; then a homosexual; a Gypsy; a Catholic bishop or other Polish priest of high rank; then a university professor, in this order, so that the visitors always found it entertaining.

MR. DODD: Now did I understand you to name Kaltenbrunner as one of those visitors there or not?

BLAHA: Yes, Kaltenbrunner was also present. He was there together with General Daluege. That was, I believe, in the year 1943. I was also interested in General Daluege because it was he who, after Heydrich's death, had become Protector of Bohemia and Moravia, and I wanted to see him.

MR. DODD: Did you see Kaltenbrunner there yourself?

BLAHA: Yes. He was pointed out to me. I had not seen him previously.

MR. DODD: Did I understand you mentioned the name Frick as one of those whom you saw there?

BLAHA: Yes, it was in the year of 1944, the first half of 1944.

MR. DODD: Where did you see him? Where in the camp did you see him?

BLAHA: I saw him from the hospital window as he was entering with his staff, with several people.

MR. DODD: Do you see the man whom you saw there that day, by the name of Frick, in this courtroom now?

BLAHA: Yes, the fourth man from the right in the first row.

MR. DODD: I understand you also named the name Rosenberg as one of those whom you saw there?

BLAHA: I can recall that it was shortly after my arrival in the concentration camp at Dachau that there was a visit and it was then that my German comrades pointed Rosenberg out to me.

MR. DODD: Do you see that man in this courtroom now?

BLAHA: Yes. He is the second farther to the left in the first row.

MR. DODD: I also understood you to name Sauckel as one of those who were present in the camp.

BLAHA: Yes, but I did not see him personally; I merely heard that he had also visited certain factories and armament plants; and that was in 1943, I believe.

MR. DODD: Was it general knowledge in the camp at that time that a man named Sauckel visited the camp, and particularly the munition plant?

BLAHA: Yes, that was general knowledge in the camp.

MR. DODD: I also understood you to name one of those who visited this camp as Funk.

BLAHA: Yes. He was also present at a visit, and I can remember that it was on the occasion of a state conference of the Axis Powers in Salzburg or Reichenhall. It was the custom on such occasions, when there was a Party convention or a celebration in Munich, Berchtesgaden, or Salzburg, for several personalities to come from the celebrations to Dachau for a visit. That was also the case with Funk.

MR. DODD: Did you personally see Funk there?

BLAHA: No, I did not see Funk personally; I merely heard that he was there.

MR. DODD: Was that general knowledge in the camp at that time?

BLAHA: Yes. We knew beforehand that he was to come.

MR. DODD: Were there any visits after the end of the year 1944, or in the months of 1945?

BLAHA: There were some visits still, but very few, because there was a typhus epidemic in the camp at that time and quarantine was imposed.

MR. DODD: Doctor, you are now director of a hospital in Prague, are you not?

BLAHA: Yes.

MR. DODD: I have no further questions to ask of the witness.

THE PRESIDENT: Do any other counsel for the Prosecution wish to ask any questions? Colonel Pokrovsky? *[Colonel Pokrovsky indicated assent.]* We will adjourn for a 10-minute recess.

[A recess was taken.]

COLONEL Y. V. POKROVSKY (Deputy Chief Prosecutor for the U.S.S.R.): I would like permission to ask this witness several questions.

[Turning to the witness]: Tell us, witness, do you know what was the particular purpose of the concentration camp at Dachau; was it really, so to speak, a concentration camp of extermination?

BLAHA: Until the year 1943 it was really an extermination camp. After 1943 a good many factories and munition plants were established, also inside the camp, particularly after the bombardments started, and then it became more of a work camp. But as far as the results are concerned there was no difference, because the prisoners had to work so hard while going hungry that they died from hunger and exhaustion instead of from beatings.

COL. POKROVSKY: Must I understand you this way, that, in fact, both before 1943 and after 1943 Dachau was a camp of extermination and that there were different ways of extermination?

BLAHA: That is so.

COL. POKROVSKY: How many, according to your own observations, went through this camp of extermination, Dachau; how many internees came originally from the U.S.S.R., how many passed through the camp?

BLAHA: I cannot state that exactly, only approximately. First, after November 1941, there were exclusively Russian prisoners of war in uniform. They had separate camps and were liquidated within a few months. In the summer of 1942, those who remained of these—I believe there were 12,000 prisoners of war—were

transported to Mauthausen; and, as I learned from the people who came from Mauthausen to Dachau, they were liquidated in gas chambers.

Then, after the Russian prisoners of war, Russian children were brought to Dachau. There were, I believe, 2,000 boys, 6 to 17 years old. They were kept in one or two special blocks. They were assigned to particularly brutal people, the "greens," who beat them at every step. These young boys also . . .

COL. POKROVSKY: What do you mean when you refer to the "greens"?

BLAHA: Those were the so-called professional criminals. They beat these young boys and gave them the hardest work. They worked particularly in the plantations where they had to pull ploughs, sowing machines, and street rollers instead of horses and motors being used. Also in all transport Kommandos Russian children were used exclusively. At least 70 percent of them died of tuberculosis, I believe, and those who remained were then sent to a special camp in the Tyrol in 1943 or the beginning of 1944.

Then after the children, several thousand so-called Eastern Workers were killed. These were civilians who were removed from the Eastern territories to Germany and then because of so-called work-sabotage were put into concentration camps. In addition there were many Russian officers and intellectuals.

COL. POKROVSKY: I would like to ask you to be more exact in your answers in regard to those people whom you call "greens." Did I correctly understand you when you said that those criminals had the task of supervising those internees arriving at the camp?

BLAHA: Yes.

COL. POKROVSKY: And these professional criminals were given complete charge of the children, and they beat and ill-treated these children of Soviet citizens and put them to work far beyond their strength, so that they became tubercular?

BLAHA: Yes.

COL. POKROVSKY: What do you know about the executions of the citizens of the U.S.S.R. which were carried out in this camp?

BLAHA: I believe I am not far from the truth when I say that of all those executed, at least 75 percent were Russians, and that women as well as men were brought to Dachau from outside to be executed.

COL. POKROVSKY: Can you give us more details in regard to the execution of 94 high field and staff officers of the Red Army, which you already spoke about in reply to the question of my

colleague? Who were these officers, and what rank did they hold? What were the reasons for their execution? Do you know anything at all about it?

BLAHA: In the summer or late spring of 1944 high-ranking Russian officers—generals, colonels, and majors—were sent to Dachau. During the following weeks they were examined by the political department; that is to say, after each interrogation they were brought to the camp hospital in a completely battered condition. I myself saw and knew well some who for weeks had to lie on their bellies, and we had to remove by surgical operation parts of their skin and muscles which had become mortified. Many succumbed to these methods of investigation. The others, 94 people in number, were then brought to the crematory in the beginning of September 1944 on orders from the RSHA in Berlin and there, while on their knees, shot through the neck.

In addition, in the winter and spring of 1945 several Russian officers were brought from solitary confinement to the crematory and there either hanged or shot.

COL. POKROVSKY: I would like to ask you the same kind of question about the execution of the 40 Russian students. It is possible for you to give us a few details about the execution?

BLAHA: Yes, those Russian students and intellectuals—I can recall that a doctor was also among them—were brought from the Moosburg Camp to Dachau, and after 1 month they were all executed. That was in March of 1944.

COL. POKROVSKY: Do you happen to know what the reason was for their execution?

BLAHA: The order for it came from Berlin. We did not get to know the reason, because I saw the bodies only after the execution and the reason was read aloud before the execution took place.

COL. POKROVSKY: This execution produced the impression that it was one of the stages of the general plan for extermination of the people who entered Dachau?

BLAHA: Yes. It was easy to see that these executions, these transports of invalids, and the way epidemics were dealt with, were all part of the general plan for extermination; and particularly, and this I must emphasize, it was the Russian prisoners who were always treated the worst of all.

COL. POKROVSKY: Would you be so kind as to say what is known to you in regard to those internees who were in the "Nacht und Nebel" (night and fog) category? Were there many of these internees? Do you know the reason why they were sent to the concentration camp?

BLAHA: Many so-called Nacht und Nebel prisoners came to the concentration camp. The people so designated were mostly from the western countries of Europe, particularly Frenchmen, Belgians, and Dutchmen. The Russian people—and this was also the case with the Czechs and also in my own case—frequently had the designation "return undesirable." This actually meant the same. Shortly before the liberation many of these people were executed on the order of the camp commander, that is, shot in front of the crematory. Many of these people, particularly the French and Russians, were serious cases of typhus and with a temperature of 40 degrees were carried on stretchers to the rifle range.

COL. POKROVSKY: It seems to me that you mentioned something about a considerable number of prisoners who died of starvation. Could you tell me how large that number was—the number of people who died of starvation?

BLAHA: I believe that two-thirds of the entire population of the camp suffered from severe malnutrition and that at least 25 percent of the dead had literally died of starvation. It was called in German "Hungertyphus." Apart from that, tuberculosis was the most wide-spread disease in the camp and it spread also because of malnutrition. Most of its victims were Russians.

COL. POKROVSKY: It seems to me that you said, answering the question of my colleague, that the majority of those who died of starvation and exhaustion were French, Russians, and Italians. How do you account for the fact that in just these categories of internees more people died than in other categories?

BLAHA: Yes.

COL. POKROVSKY: How do you explain that especially Russians, French, and Italians made up the largest number of those people who died from starvation? Was there any difference in the feeding of internees of the different nationalities, or was there some other reason?

BLAHA: It was like this: The others, the Germans, Poles, and Czechs, who had already been in the camp for some time, had had time, if I may say so, to adjust themselves to camp conditions, physically I mean. The Russian deteriorated rapidly. The same was true of the French and the Italians. Moreover, these nationals for the most part arrived from other camps suffering from malnutrition so that they then soon fell easy prey to the other epidemics and diseases. Also, the Germans, Poles, and many others who worked in the armaments industry had since the year 1943 been able to get parcels from home. That, of course, was not the case with citizens of Soviet Russia, France, or Italy.

COL. POKROVSKY: Can you answer the question about what Rosenberg, Kaltenbrunner, Sauckel, or Funk saw when they were in

the Dachau Concentration Camp? Do you know what they saw and what was shown them?

BLAHA: I had no opportunity of seeing what happened during these visits. Only on very rare occasions did one have the opportunity of seeing these visitors from the window and observing where they went. I seldom had the opportunity to be present as I was in the case of Himmler's visits and those of Obergruppenführer Pohl and once on the occasion of Gauleiter Giesler's visit, when they were shown the experiments or the patients in the hospital. As to the others I do not know what they individually saw and did in the camp.

COL. POKROVSKY: Perhaps you had an opportunity of observing the length of the visit of those people in the camp, whether the visit was short—just for a few moments—or whether they stayed there a long time. I have in mind Rosenberg, Kaltenbrunner, Sauckel, and Funk.

BLAHA: That varied. Many visitors were there for half an hour, many, as I said before, spent as many as 3 hours there. We were always able to observe that quite well because at those times no work could be done, nor was food distributed. We did not carry on our work in the hospital and had to wait until the signal was given to us that the visitors had left the camp. Apart from that I had no means of knowing how long these visits in the camp lasted in the individual cases.

COL. POKROVSKY: Can you recall the visit of Kaltenbrunner, Rosenberg, Funk, and Sauckel? On the basis of what you said just now could you state whether they were brief visits or whether those people stayed there for several hours? Did you understand my question or not?

BLAHA: Unfortunately, I cannot make a statement on that because, as I said, the visits took place so frequently that I have difficulty, after all these years, in recalling whether they lasted for a short or longer time. Many visits, for instance, from schools—from the military and police schools—lasted a whole day.

COL. POKROVSKY: Thank you. I have no further questions of this witness at this stage of the sitting.

M. CHARLES DUBOST (Deputy Chief Prosecutor for the French Republic): You alluded to a convoy of deported French people who came from Compiègne, of whom only 1,200 survivors arrived. Were there any other convoys?

BLAHA: Yes. There were transports, particularly from Bordeaux, Lyon, and Compiègne, all in the first half of 1944.

M. DUBOST: Were all the transports carried out under the same conditions?

BLAHA: The conditions under which these transports were made were, if not the same, at any rate very similar.

M. DUBOST: Each time you were able to see on arrival that there were numerous victims?

BLAHA: Yes.

M. DUBOST: What were the causes of death?

BLAHA: The deaths were caused by the fact that too many people were packed into the cars, which were then locked, and that they did not get anything to eat or drink for several days. Usually they starved or suffocated. Many of those who survived were brought to the camp hospital, and of these a large number died from various complications and diseases.

M. DUBOST: Did you make autopsies on the people who died while en route?

BLAHA: Yes, particularly for the transport from Compiègne my services were demanded because the rumor was spread that the French Maquis and Fascists had attacked and killed each other in the cars. I had to inspect these corpses, but in no case did I find any signs of violence. Moreover, I took 10 corpses as a test, dissected them thoroughly and sent special reports on them to Berlin. All these people had died of suffocation. I was also able to note during the autopsy that these were prominent people of France. I could tell from their identity papers and uniforms that they were high-ranking French officers, priests, deputies, and well-nourished people who had been taken direct from civilian life to the cars and sent to Dachau.

M. DUBOST: After the reports which you sent to Berlin did the conditions under which the transports were made remain the same?

BLAHA: Nothing happened, as usual. Always long reports were written but conditions did not improve at all.

M. DUBOST: You indicated that some French generals had been put to death shortly before the liberation of the camp. Do you know the names of these generals?

BLAHA: Unfortunately I have forgotten these names. I can remember only what I was told by the prisoners who were kept in the bunkers with them—that they were the prominent personalities from Germany and other countries: Pastor Niemöller was there, also a French prince, Schuschnigg was there too, and members of the French Government and many others. I was told that one of the generals who had been shot was a close relative of General De Gaulle. Unfortunately I have forgotten his name.

M. DUBOST: If I understood you correctly, these generals were prisoners of war who had been transported to this concentration camp?

BLAHA: These two generals were not in the concentration camp. They were kept, along with the other prominent personalities, in the so-called "Kommandantur-Arrest," that is, in the bunker separated from the camp. On various occasions when they needed medical attention I came into contact with them, but that was very seldom. Otherwise they did not come into contact with the other prisoners at all.

M. DUBOST: Did they belong to the category of deported people whose "return was undesirable" or were they in the Nacht und Nebel category?

BLAHA: I do not know. It was 2 days previously that all the others who were kept in the bunker were sent by special transport to the Tyrol. That was, I believe, a week or 8 days before the liberation.

M. DUBOST: You indicated that numerous visitors, German military men, students, political men, often toured the camp. Can you say if any ordinary people, like workers or farmers, knew what was going on in this camp?

BLAHA: In my opinion, the people who lived in the neighborhood of Munich must have known of all these things, because the prisoners went every day to various factories in Munich and the neighborhood; and at work they frequently came into contact with the civilian workers. Moreover, the various suppliers and consumers often entered the fields and the factories of the German armament works and they saw what was done to the prisoners and what they looked like.

M. DUBOST: Can you say in what way the French were treated?

BLAHA: Well, if I said that the Russians were treated worst of all, the French were the second in order. Of course, there were differences in the treatment of individual persons. The Nacht und Nebel prisoners were treated quite differently; likewise the prominent political personalities and the intellectuals. That was so for all nationalities. And the workers and peasants also were treated differently.

M. DUBOST: If I understood correctly, the treatment reserved for the French intellectuals was particularly rigorous. Do you remember the treatment inflicted on some French intellectuals and can you tell us their names?

BLAHA: I had many comrades among the physicians and university professors who worked with me in the hospital. Unfortunately a large number of them died of typhus. Most of the

French, in fact, died of typhus. I remember best of all Professor Limousin. He arrived in very poor condition with the transport from Compiègne. I took him into my department as assistant pathologist. Then I also knew the Bishop of Clermont-Ferrand. There were other physicians and university professors whom I knew. I remember Professor Roche, Dr. Lemartin, and many others —I have forgotten their names.

M. DUBOST: In the course of the conversations which you had with Dr. Rascher were you informed of the purpose of these experiments?

BLAHA: I didn't understand the question, excuse me please...

M. DUBOST: Were you informed of the purpose of the medical and biological experiments made by Dr. Rascher in the camp?

BLAHA: Well, Dr. Rascher made exclusively so-called Air Force experiments in the camp. He was a major in the Air Force and was assigned to investigate the conditions to which parachutists were subjected and, secondly, the conditions of those people who had to make an emergency landing on the sea or had fallen into the sea. According to scientific standards, insofar as I can judge, this was all to no purpose. Like all the other experiments, it was simply useless murder; and it is amazing that learned university professors and physicians, particularly, were capable of carrying out these experiments according to plan. These experiments were much worse than all the liquidations and executions, because all the victims of these experiments simply had their suffering prolonged, as various medicines such as vitamins, hormones, tonics, and injections, which were not available for the ordinary patients, were provided for these patients so that the experiments might last longer and give those people more time to observe their victims.

M. DUBOST: I am speaking now of the experiments of Dr. Rascher only. Had he received the order to make these experiments or did he make them on his own initiative?

BLAHA: These experiments were made on Himmler's direct orders; also, Dr. Rascher had close relations with Himmler and was like a relative of his. He visited Himmler very often and Himmler visited Dr. Rascher several times.

M. DUBOST: Have you any information as to the kind of physicians who were making these experiments? Were they always SS men or were they members of medical faculties of universities who, however, did not belong to the SS?

BLAHA: That varied. For example, the malaria station was under the direction of Professor Klaus Schilling of the Koch

Institute in Berlin. The Phlegmone station also had several university professors. The surgical station was manned solely by SS doctors. In the Air Force station there were exclusively SS and military doctors. It differed. Dr. Bleibeck from Vienna conducted the experiments with sea water.

M. DUBOST: Were the experiments for the Luftwaffe made on the order of Himmler only?

BLAHA: Himmler.

M. DUBOST: Do you know—this is the last question—how many Frenchmen passed through this camp?

BLAHA: I believe at least eight or ten thousand people arrived at the camp. Furthermore, I know very well that, particularly during the last period, several thousand French prisoners marched on foot from the western camps, especially from Natzweiler, Struthof, *et cetera,* and that only very small remnants of these ever reached Dachau.

M. DUBOST: Thank you.

THE PRESIDENT: Can you tell us to what branches of the German service those who were employed at the camp belonged?

BLAHA: If I understood you correctly, the highest authority on everything going on in the camp was the so-called Security Main Office in Berlin. All demands and directives came from Berlin; also the experimental stations received a definite quota of subjects for the experiments and the numbers were fixed by Berlin. If the doctors making the experiments needed a larger number, new requests had to be sent to Berlin.

THE PRESIDENT: Yes, but what I want to know is to what branch of the service the men belonged who were employed in the camp.

BLAHA: They were all SS men and most of them from the SD. During the last days, at the very end, a few members of the Armed Forces were there as guards but the men in charge were entirely SS men.

THE PRESIDENT: Were there any of the Gestapo there?

BLAHA: Yes, that was the so-called political department, which was directed by the chief of the Munich Gestapo. It had control of all the interrogations and regulations, and it proposed the executions, transports, and transports of invalids. Also, all the people who were provided for the experiments had to be approved by the political department.

THE PRESIDENT: Do any of the defendants' counsel want to cross-examine the witness?

DR. SAUTER: Witness, you told us that at one time the Defendant Funk also was at Dachau, and you informed us, if I understood you correctly, that this happened on the occasion of some celebration or state conference between the Axis Powers. Please think back a little and tell us when that was approximately. Perhaps—just a moment—perhaps you could tell us the year, maybe also the season, and perhaps you could also state which political celebration it was.

BLAHA: As far as Funk is concerned, I can remember that it was, I believe, a conference of finance ministers. The papers had announced that it would take place and we were informed beforehand that some of the ministers would come to Dachau. Such a visit was actually made a few days afterwards, and it was said that Minister Funk was among the visitors. It was, I believe, during the first half of the year 1944. I cannot say that with absolute certainty.

DR. SAUTER: You mean to say: during the first half of 1944, on the occasion of a conference of finance ministers?

BLAHA: Yes.

DR. SAUTER: Where did that conference take place?

BLAHA: If I remember correctly—I didn't write that down, of course—that was either in Salzburg or Reichenhall or Berchtesgaden, somewhere in the neighborhood of Munich, I believe.

DR. SAUTER: From whom did you learn at that time that on the next day, or the day after, high-ranking visitors would arrive?

BLAHA: We always received an order to prepare for such a visit. Elaborate preparations were always made; everything was cleaned up; everything had to be in order, as you will understand; and those people whose presence might be undesirable or those who, in a certain sense, might be dangerous, had to disappear. Thus, whenever such high-ranking visitors were announced we always received an order from the camp headquarters 1 or 2 days beforehand; and, also these visitors were always accompanied by the camp commander.

DR. SAUTER: By the camp commander? Now, if you know that the Defendant Funk was there and people talked about it, then I think they would have mentioned also what other persons were present at this visit made by the Defendant Funk.

BLAHA: I cannot remember. There were always several important persons.

DR. SAUTER: The rest do not interest me. I am interested only in knowing whether or not at that particular visit, which was said to have been made by Funk, word was passed around the camp that such and such personalities were with him?

BLAHA: I cannot remember that now.

DR. SAUTER: You cannot remember. Can you remember afterwards, perhaps on the next day or the day after, something was said perhaps by people who had seen the visitors?

BLAHA: Yes, we always discussed that, but now I can no longer remember which personalities were mentioned.

DR. SAUTER: Witness, I am not interested in any other visit, but in this specific visit, as long as I do not say anything to the contrary. In this case I should like to know whether or not anything at all was said later on about the persons who were there with Funk.

BLAHA: That I do not know; there were so many visits. For instance, after one visit, the very next day already another visit would be announced.

DR. SAUTER: Now, you do also remember the visit that Funk made. Well, if other finance ministers were there, one would think that you would recall these other persons also.

BLAHA: I cannot remember that. It may be that the people with whom I talked did not know who these other persons were.

DR. SAUTER: Do you know why, or to put it differently, which departments of the camp were visited on the occasion when Funk was supposed to have made this visit. At any rate he did not come to you.

BLAHA: No; he did not come to the pathological department.

DR. SAUTER: He did not. But you were also prepared?

BLAHA: Yes. All departments had always to be prepared, even if no visitors came. It also happened at times that a visit was announced, and then, for one reason or another, nothing came of it.

DR. SAUTER: Witness, as regards these observations of yours that you have related to us today, have you been interrogated in regard to them many times already?

BLAHA: I was interrogated on these matters for the first time before the military court at Dachau.

DR. SAUTER: Did you also at that time say that Funk had been there? I repeat, did you before the military court at Dachau say anything to the effect that Funk had been present?

BLAHA: Yes, I said the same thing before the court at Dachau.

DR. SAUTER: About Funk?

BLAHA: Also about Funk.

DR. SAUTER: But is it true, Witness? I ask again whether it is really true, because you are here as a witness under oath.

BLAHA: Yes.

DR. SAUTER: You were interrogated also the day before yesterday?

BLAHA: Yes.

DR. SAUTER: Did you, at that time, also make these statements about Funk?

BLAHA: I said the same thing at the interrogation conducted by the Prosecution.

DR. SAUTER: Is that also in the record which I believe you signed?

BLAHA: I signed no record.

DR. SAUTER: You signed no record?

BLAHA: No; I simply signed what was read by the Prosecution.

DR. SAUTER: Well, that is a record.

BLAHA: Yes, but in that record there is no mention of these visits.

DR. SAUTER: Why then didn't you mention these visits the day before yesterday?

BLAHA: I was asked about it orally, and the prosecutor told me that these matters would be taken up orally in the courtroom.

DR. SAUTER: Were you then also told where the defendants sit in the courtroom?

BLAHA: No. Before the military court I was shown all the pictures . . . .

DR. SAUTER: Aha!

BLAHA: And I was asked to identify to the court the various people. I identified the three of whom I said today that I had seen them in person. Funk and others I did not name.

DR. SAUTER: You did not name Funk?

BLAHA: I did not say that I had personally seen him or that I could identify him.

DR. SAUTER: But when the pictures were shown to you did you see the defendants in the pictures?

BLAHA: Yes.

DR. SAUTER: Now, if I understand you correctly, you knew today where, for instance, Funk or Frick or anyone else was sitting?

BLAHA: Funk I do not know personally, because I did not see him at that time.

DR. SAUTER: Were you not told when the pictures were shown to you at Dachau, "This is Funk; look at him; do you know him"?

BLAHA: No; that was done quite differently.

DR. SAUTER: How?

BLAHA: All the pictures were shown to me and I was asked to say which of these individuals I had seen at the Dachau camp. Of these people I named these three. There was no further discussion whatsoever in regard to the other pictures.

DR. SAUTER: Well, Dr. Blaha, when your hearing started and you were questioned by the President or by the prosecutor, you made a statement, I believe, in the Czech language.

BLAHA: No.

DR. SAUTER: What then?

BLAHA: In the German language.

DR. SAUTER: No; everyone heard that that was not German, but it was obviously Czech.

BLAHA: The first sentence only.

DR. SAUTER: The first sentences? Well, now, as it will in any case come into the court transcript for practical purposes, I ask you to state and to repeat quite literally, giving the true sense, that which you said then, because we are interested in that from the point of view of the Defense.

BLAHA: I believe that it was included in the transcript because an English translation was added to my statement.

DR. SAUTER: No, I do not believe that Czech is being translated. But anyhow please repeat it. We did not hear it.

BLAHA: Yes. I said that I was ready, since it is technically impossible to use my native Czech tongue in the hearing, to give my testimony in German, because I have lived in German surroundings through all these events which occurred during the last 7 years and which are now the subject of this Trial. Moreover, the special and new expressions referring to life in the camp can be found only in German, and in no other dictionary can one find such suitable and expressive terms as in the German language.

DR. SAUTER: Then, Mr. President, I have no further questions. Thank you.

DR. THOMA: Witness, were the inmates of the Concentration Camp Dachau bound to secrecy?

BLAHA: No. Of course, if someone was discharged from the camp by the Gestapo—those cases were few and far between, particularly in the case of the Germans, who were then drafted—one had to sign a so-called pledge of secrecy.

DR. THOMA: Could the inmates of the camp, those inside the camp, who worked on farms, *et cetera,* talk to the other workers about conditions in the camp?

BLAHA: Yes, there were opportunities, because the people worked in the same rooms and factories with other workers—civilian workers. That was the case in the German armament industry, in the fields, and in all factories in Munich and the surroundings.

DR. THOMA: If I understood you correctly, you said previously that visitors, people who delivered things, and customers, also had an opportunity of observing these conditions in the camp without difficulty.

BLAHA: Yes. Many of these people had access everywhere, in the fields as well as in the various factories, and could observe what life was like in these places.

DR. THOMA: And what did they see there in the way of atrocities and ill-treatment, and so forth?

BLAHA: I believe they saw how the people worked, what they looked like and what was produced there. For instance, I can remember one example of what they saw quite well. At that time I was working in the fields. We were pulling a heavy street roller, 16 men, and a group of girls passed who were on an excursion. When they passed, their leader said very loudly, so that we all could hear it, "Look, those people are so lazy that rather than harness up a team of horses they pull it themselves." That was supposed to be a joke.

DR. THOMA: Witness, when did you first have occasion, after your liberation from the concentration camp, to tell outside people about those horrible atrocities which you related to us today?

BLAHA: I did not understand that; please repeat.

DR. THOMA: When did you first have an opportunity, after your discharge or liberation from the concentration camp, of telling an outsider about these horrible atrocities?

BLAHA: Immediately after the liberation. I was at that time, as chief physician of the concentration camp, interrogated by the American investigating corps; and it was to this corps that I told this story for the first time, and I also gave them various proofs—diagrams, and the medical records which I had saved from being burnt.

DR. THOMA: That prosecutor believed the information you gave without further ado?

BLAHA: Yes.

DR. THOMA: Witness, you said that the Defendant Rosenberg was pointed out to you in the Concentration Camp Dachau shortly after you arrived there.

BLAHA: Yes.

DR. THOMA: When was that?

BLAHA: In the year 1941; first half of 1941.

DR. THOMA: First half?

BLAHA: I believe so, yes.

DR. THOMA: Can you perhaps remember the month?

BLAHA: I cannot remember. I arrived in April; I believe it was between April and July or something like that.

DR. THOMA: From April to July 1941?

BLAHA: I believe so.

DR. THOMA: Was Rosenberg at that time in uniform?

BLAHA: He was in uniform.

DR. THOMA: In what uniform?

BLAHA: I believe it was an SS uniform.

DR. THOMA: SS uniform?

BLAHA: It was a—I cannot say that very precisely—but he was in uniform.

DR. THOMA: All right, you remember *prima facie* that it was an SS uniform, that is, a black uniform?

BLAHA: No, at that time the SS no longer wore the black uniform, because after the beginning of the war they wore field uniforms and other similar uniforms.

DR. THOMA: Then, you assume it was a gray uniform?

BLAHA: Something like that; whether it was gray or yellow or brown I don't remember any more.

DR. THOMA: That is just the point: whether it was gray, brown, or yellow. Was it a field uniform?

BLAHA: I do not know because from 1939 I was in the concentration camp, and I am not at all familiar with the various German uniforms, ranks, and branches of the Army, and so forth.

DR. THOMA: But you just said that during the war they changed the uniform.

BLAHA: Yes, the men in the Gestapo also changed theirs. When I was arrested in 1939, all Gestapo personnel wore this black uniform. Then, after the war broke out most of them wore either green or gray uniforms.

DR. THOMA: May I ask you again: Did Rosenberg wear a wartime uniform or a peacetime uniform?

BLAHA: I believe it was a wartime uniform.

DR. THOMA: Wartime uniform? The Defendant Rosenberg was pointed out to you by another comrade, wasn't he?

BLAHA: Yes.

DR. THOMA: At what distance?

BLAHA: Well, he was just going down the camp street. That was perhaps 30 or 40 degrees.

DR. THOMA: Thirty or forty metres you mean?

BLAHA: Well, 30 metres; 30 paces I wanted to say, 30 or 40 paces.

DR. THOMA: And had you previously seen photographs of Rosenberg? Did you already have an idea of what Rosenberg looked like?

BLAHA: Yes.

DR. THOMA: And when this comrade showed you Rosenberg, was it then necessary for him to say, "This is Rosenberg"? Didn't you recognize him already from having seen him in the photographs which you had previously...

BLAHA: I cannot remember that. But when he showed him to me I remembered that I knew him already from the various pictures in the newspapers.

DR. THOMA: May I ask you to describe the incident precisely? How it happened; where you were standing; where Rosenberg came from; and who was in his company.

BLAHA: Who was in his company? I knew only the camp commander.

DR. THOMA: Who was the camp commander at that time?

BLAHA: Pierkowski was camp commander, Sturmbannführer Pierkowski.

DR. THOMA: Do you know whether he is still alive?

BLAHA: No, I don't.

DR. THOMA: The camp commander?

BLAHA: Pierkowski. Then the Lagerführer Ziel and Hoffmann, I knew them.

DR. THOMA: Now were you in your room and looking out of the window?

BLAHA: No, we were in one of the so-called "block" streets. This led into another street along which the visitors passed.

DR. THOMA: And what was said to you?

BLAHA: "Look, there goes Rosenberg."

DR. THOMA: Was Rosenberg alone?

BLAHA: No, he was with the other persons.

DR. THOMA: That is to say, only with the camp commander?

BLAHA: No, there were many other people with him.

DR. THOMA: That is to say, he had an escort, a staff?

BLAHA: Yes.

DR. THOMA: Members of Rosenberg's staff?

BLAHA: I don't know whether that was Rosenberg's staff, but there were a number of persons.

DR. THOMA: A number of persons? Witness, the Defendant Rosenberg assures me most definitely that he has never been to the concentration camp at Dachau. Is it possible that there has been a mistake?

BLAHA: I believe I am not mistaken. Besides the German in question knew Rosenberg very well, I believe.

DR. THOMA: How do you know that?

BLAHA: Because he told me so definitely. Otherwise, I have no way of knowing that.

THE PRESIDENT: Dr. Thoma.

DR. THOMA: Yes.

THE PRESIDENT: You will forgive me if I point out to you that this is intended to be an expeditious trial and that it is not right to take up too much time upon small points like this.

DR. THOMA: My Lord, I ask your permission to remark that the question of whether or not Rosenberg was in the concentration camp is of decisive importance. I thank you.

DR. OTTO PANNENBECKER (Counsel for Defendant Frick): The Defendant Frick states that he has never been in Dachau Camp. Therefore, in order to clarify the facts I should like to ask the following questions:

Witness, at what distance do you believe you saw Frick?

BLAHA: I saw him from the window as he passed with a number of people.

DR. PANNENBECKER: Did you know Frick before?

BLAHA: Yes, from pictures.

DR. PANNENBECKER: From pictures? Did you recognize him yourself or did some friend tell you that it was Frick?

BLAHA: A number of us saw him and I looked at him particularly, because at that time he was already Protector of Bohemia

and Moravia. For that reason I had a personal interest in recognizing him.

DR. PANNENBECKER: Did Frick wear a uniform?

BLAHA: I do not believe so.

DR. PANNENBECKER: Did you recognize anybody who was with him, anyone from his staff or from the camp command?

BLAHA: I did not know his staff. From the camp command there was Camp Commander Weiter. Camp Commander Weiter, and his adjutant, Otto.

DR. PANNENBECKER: Could you name anyone of your comrades who also recognized him?

BLAHA: There were many comrades of mine who at that time were standing at the window. Unfortunately, I cannot say who they were, because, as you will understand, life in the concentration camp was so full of incidents that one could not record these things accurately in one's memory. One remembers only the more important events.

DR. PANNENBECKER: Did you recognize him at once of your own accord when he passed by, or had it been mentioned previously that Frick was expected?

BLAHA: No, it was not mentioned then. We simply heard that a high-ranking visitor was expected, and we were waiting for this high-ranking visitor. We were not told beforehand who it would be.

DR. PANNENBECKER: Did you recognize Frick immediately when you came into the courtroom, or did you know beforehand that he was sitting in the fourth seat here?

BLAHA: No, I recognized him easily, because I have already seen him many times in various pictures, and because he is a well-known person in Bohemia and Moravia.

DR. PANNENBECKER: You believe then that there can be no question of any error.

BLAHA: I don't think so.

DR. PANNENBECKER: May I then ask the Court whether Frick himself may take the stand to testify that he has never seen Dachau Camp? I want to make this motion now so that, if necessary, the witness might be confronted with Frick.

THE PRESIDENT: Counsel for the defendants will understand that they will have the opportunity, when it comes to their time to present their cases, to call all the defendants, but they will not have an opportunity of calling them now. They will have to wait until the case for the Prosecution is over and they will then have

an opportunity, each of them, to call the defendant for whom they appear, if they wish to.

DR. PANNENBECKER: I simply thought, that as the witness is available now . . .

[Dr. Kubuschok approached the lectern.]

THE PRESIDENT: It is now 5:00 o'clock and unless you are going to be very short . . . are you going to be very short?

DR. EGON KUBUSCHOK (Counsel for the Reich Cabinet): Yes, Sir.

[Turning to the witness.] Witness, you said that when prominent visitors came to the camp, for instance, Reich ministers, extensive preparations were made beforehand. You also said that undesirable persons were removed. Maybe you could supplement that statement. I am interested to know what the purpose of these preparations was.

BLAHA: I meant that everything had to be in order. In our infirmary all the patients had to lie in bed quietly, everything was washed and prepared; the instruments were polished, as is usually the case for high-ranking visitors. We were not allowed to do anything—no operations; no bandages nor food were given out before the visit had terminated.

DR. KUBUSCHOK: Could you perhaps tell me which undesirable persons were to be removed, as you said before?

BLAHA: Well, the Russians especially were always kept strictly in their blocks. It was said that they were afraid of possible demonstrations, assassinations, *et cetera.*

DR. KUBUSCHOK: Were prisoners kept out of sight because they showed outward signs of ill-treatment?

BLAHA: It goes without saying that before the visitors nobody was struck, beaten, hanged, or executed.

DR. KUBUSCHOK: To sum up, the purpose of these preparations was to prevent the guests from seeing the concentration camp as it really was.

BLAHA: From seeing the cruelties.

DR. KUBUSCHOK: Thank you.

THE PRESIDENT: The Court will not sit in open session tomorrow, Saturday, and will only sit in the morning on Monday, because there is work to be done in the closed session tomorrow and on Monday afternoon. I thought it would be convenient for counsel to know that.

The Court will now adjourn.

[The Tribunal adjourned until 14 January 1946 at 1000 hours.]

THIRTY-THIRD DAY

Monday, 14 January 1946

Morning Session

THE PRESIDENT: Would you have the witness brought in? I think one of the defendants' counsel was about to cross-examine him.

[The witness, Blaha, took the stand.]

HERR LUDWIG BABEL (Counsel for the SS and SD): I would like to put to the witness a few practical questions which I think necessary both for a better understanding of the earlier testimony of the witness and for my own information.

The witness was in the concentration camp from 1941 to 1945 and should be well informed on conditions as they were. His memory, as is evident from his previous statements, seems to be excellent.

[Turning to the witness.]

Do you know how the proportion of political and criminal inmates changed during the various periods? What were the approximate figures of political and criminal inmates in Dachau?

BLAHA: In Dachau it varied. There were political prisoners, professional criminals, and the so-called black or asocial elements. I am, of course, speaking only of the German prisoners; the inmates of other nations were all political prisoners. Only the German inmates were divided into red, green, and black prisoners. The great majority of Germans were political prisoners.

HERR BABEL: Can you indicate the approximate proportion? A quarter, a half, or three-quarters?

BLAHA: I am sorry, I didn't hear you.

HERR BABEL: Can you give figures? How many were political prisoners—half, three-quarters, or how many? Can you give an approximate number?

BLAHA: I would say that of 5,000 German prisoners, 3,000 were political and 2,000 were green and black prisoners.

HERR BABEL: Was that the proportion during the whole 4- or 5-year period?

BLAHA: It changed; because many died, some Germans left, many were drafted, and there were many new arrivals. In the last

years there were more and more political prisoners, because many of the green prisoners were drafted to the front.

HERR BABEL: What approximately was the total number in 1941, 1943, and 1945?

BLAHA: Do you mean the total number of prisoners?

HERR BABEL: Yes, the total number.

BLAHA: We had 8,000 to 9,000 in 1941; in 1943 there were 15,000 to 20,000; and between the end of 1944 and the beginning of 1945 we had more than 70,000 or 80,000.

HERR BABEL: Another question: You mentioned that at first you worked in the plantations. What did you mean by plantations?

BLAHA: The plantations were a large estate of the SS, in which spices, medical herbs, and things of that sort were raised.

HERR BABEL: Was this plantation inside the camp?

BLAHA: No, it was in the near vicinity of the camp, not a part of it.

HERR BABEL: You also mentioned work in armament factories. I gathered from your testimony that these armament factories were partially within and partially outside the camp. Is that correct?

BLAHA: Yes, at first these so-called German armament works were only outside the camp. Then, as a result of the bombings, some sections were moved into the interior of the concentration camp.

HERR BABEL: What was the number of camp guards in 1941?

BLAHA: For actual guard duty usually three SS companies were in the camp, but at Dachau there were in addition a large garrison of SS and a Kommandantur. Guards were taken from other SS formations from time to time, when it was necessary. It varied and depended on how many guards were needed. For regular duty there were usually three companies.

HERR BABEL: Were the prisoners in the armament factories guarded during working hours?

BLAHA: Yes. Every labor detachment had a commander selected from the guard companies and, in addition, these so-called guards, who went with the detachment to their place of work and then brought the prisoners back to the camp.

HERR BABEL: While you were at the camp, did you witness any ill-treatment on the part of these guards in the course of their daily activities?

BLAHA: Yes; a great deal.

HERR BABEL: Often?

BLAHA: Yes.

HERR BABEL: For what reasons?

BLAHA: The reasons varied, depending on the nature of the guards or the commanders.

HERR BABEL: But you said you were occupied, indeed according to your statements, very much occupied.

BLAHA: Yes.

HERR BABEL: How then did you have an opportunity of observing such ill-treatment?

BLAHA: I performed many autopsies on people either shot or beaten to death at their work, and made official reports on the cause of death.

HERR BABEL: You said they were shot. Did you see such incidents yourself?

BLAHA: No.

HERR BABEL: Then, how do you know that?

BLAHA: The bodies were brought to me from the place of work, and it was my duty to ascertain the cause of death; that the men had been beaten to death, for example, that the skull or ribs had been fractured, that the man had died of internal hemorrhage, or that he had been shot; I had to make an official report on the cause of death. Sometimes, but this was rare, when an investigation was conducted, I was called in as witness.

HERR BABEL: Thank you.

THE PRESIDENT: Mr. Dodd, do you wish to re-examine the witness?

MR. DODD: I have no further questions to ask the witness at this time.

THE PRESIDENT: Does any other member of the prosecuting staff want to re-examine? Colonel Pokrovsky?

COLONEL POKROVSKY: At this stage of the Trial I have no further questions to ask the witness.

THE PRESIDENT: Then the witness can go.

[The witness left the stand.]

MR. DODD: I should like to ask the Tribunal at this time to take judicial notice of the findings and the sentences imposed by the Military Court at Dachau, Germany, on the 13th day of December 1945. The findings were dated the 12th and the sentences on the 13th. I have here a certified copy of the findings and the sentences, Document Number 3590-PS, which I should like to offer as Exhibit Number USA-664.

THE PRESIDENT: Have copies of this been given to the defendants?

MR. DODD: Yes. They have been sent to the defendants' counsel information room.

THE PRESIDENT: Very well.

MR. DODD: I have one other matter that I should like to take up very briefly before the Tribunal this morning. It is concerned with a matter that arose after I had left the courtroom to return to the United States.

On the 13th of December we offered in evidence Document Number 3421-PS, and Exhibit Numbers USA-252 and 254. They were, respectively, the Court will recall, sections of human skin taken from human bodies and preserved; and a human head, the head of a human being, which had been preserved. On the 14th day of December, according to the Record, counsel for the Defendant Kaltenbrunner addressed the Tribunal and complained that the affidavit, which was offered, of one Pfaffenberger, failed to state that the camp commandant at Buchenwald, one Koch, along with his wife, was condemned to death for having committed precisely these atrocities, this business of tanning the skin and preserving the head. And in the course of the discussion before the Tribunal the Record reveals that counsel for the Defendant Bormann, in addressing the Tribunal, stated that it was highly probable that the Prosecution knew that the German authorities had objected to this camp commandant Koch and, in fact, knew that he had been tried and sentenced for doing precisely these things. And there was some intimation, we feel, that the Prosecution, having this knowledge, withheld it from the Tribunal. Now, I wish to say that we had no knowledge at all about this man Koch at the time that we offered the proof; didn't know anything about him except that he had been the commandant, according to the affidavit. But, subsequent to this objection we had an investigation made, and we have found that he was tried in 1944, indeed, by an SS court, but not for having tanned human skin nor having preserved a human head but for having embezzled some money, for what—as the judge who tried him tells us—was a charge of general corruption and for having murdered someone with whom he had some personal difficulties. Indeed, the judge, a Dr. Morgen, tells us that he saw the tattooed human skin and he saw a human head in Commandant Koch's office and that he saw a lampshade there made out of human skin. But there were no charges at the time that he was tried for having done these things.

I would also point out to the Tribunal that, we say, the testimony of Dr. Blaha sheds further light on whether or not these exhibits, Numbers USA-252 and 254, were isolated instances of that atrocious

kind of conduct. We have not been able to locate the affiant. We have made an effort to do so, but we have not been able to locate him thus far.

THE PRESIDENT: Locate whom?

MR. DODD: The affiant Pfaffenberger, the one whose affidavit was offered.

THE PRESIDENT: Very well, Mr. Dodd.

DR. KURT KAUFFMANN (Counsel for Defendant Kaltenbrunner): The statement just made is undoubtedly significant, but it would be of importance to have the documents which served to convict the commandant and his wife at the time. Kaltenbrunner told me that it was known in the whole SS that the commandant Koch and his wife had been taken to account also—I emphasize "also"—on account of these things and that it was known in the SS that one of the factors determining the severity of the sentences imposed had been this proved inhuman behavior.

THE PRESIDENT: Wait a minute. As you were the counsel who made the allegation that the commandant Koch had been put to death for his inhuman treatment, it would seem that you are the party to produce the judgment.

DR. KAUFFMANN: I never had the verdict in my hand. I depended on the information which Kaltenbrunner gave me personally and orally.

THE PRESIDENT: It was you who made the assertion. I don't care where you got it from. You made the assertion; therefore it is for you to produce the document.

DR. KAUFFMANN: Yes.

COLONEL H. J. PHILLIMORE: (Junior Counsel for the United Kingdom): May it please the Tribunal: Briefs and document books have been handed in. The documents in the document book are in the order in which I shall refer to them, and the references to them in the briefs are also in that order. On the first page of the brief is set out the extract from Appendix A of the Indictment, which deals with the criminality of this defendant.

THE PRESIDENT: Are you dealing first of all with Raeder or with Dönitz?

COL. PHILLIMORE: With Dönitz. My learned friend, Major Elwyn Jones, will deal with Raeder immediately after. Reading at Page 1 of the brief . . .

THE PRESIDENT: The Tribunal will adjourn for 10 minutes.

[A recess was taken.]

COL. PHILLIMORE: My Lord, may I proceed?

THE PRESIDENT: Very well.

COL. PHILLIMORE: Briefs and document books have been handed in. The documents are in the document book in the order in which I shall refer to them, and the references in the brief to the documents are in that same order. On the first page of the brief is set out the extract from the Indictment as Appendix A, which deals with the allegations against this defendant. It sets out the positions he held and charges him, first, with promoting the preparations for war, set forth in Count One; second, with participating in the military planning and preparation for wars of aggression and wars in violation of international treaties, agreements, and assurances, set forth in Count One and Two of the Indictment; and thirdly, with authorizing, directing, and participating in the War Crimes set forth in Count Three of the Indictment, including particularly the crimes against persons and property on the High Seas.

Now, if at any place I appear to trespass on Count Three, it is with the consent and courtesy of the Chief Prosecutor for the French Republic.

My Lord, on the second page of the brief are set out first the positions held by the Defendant Dönitz; and the document in question is the first document in the document book, 2887-PS, which has already been put in as Exhibit Number USA-12. The Tribunal will see that after his appointment in 1935 as Commander of the Weddigen U-boat Flotilla—that was, in fact, the first flotilla to be formed after the end of the World War in 1918—the defendant, who was in effect then Commander of U-boats, rose steadily in rank as the U-boat arm expanded, until he became an admiral. And then on the 30th of January 1943, he was appointed Grossadmiral and succeeded the Defendant Raeder as Commander-in-Chief of the German Navy, retaining his command of the U-boat arm. Then on the 1st of May 1945, he succeeded Hitler as head of Germany.

My Lord, as appears from a number of documents which I shall put in evidence, the defendant was awarded the following decorations: On the 18th of September 1939 the Cluster of the Iron Cross, first class, for the U-boat successes in the Baltic during the Polish campaign. This award was followed on the 21st of April 1940 by the high award of the Knight's Cross to the Iron Cross, while on the 7th of April 1943 he received personally from Hitler the Oak Leaf to the Knight's Cross of the Iron Cross, as the 223rd recipient, for his services in building up the German Navy and, in particular, his services for the offensive U-boat arm for the coming war, which were outstanding. And now I put in the next document in the document book, D-436, which becomes Exhibit GB-183. That is an extract from the official publication *Das Archiv* on the defendant's promotion to vice admiral. It is dated the 27th of September 1940, and I read the last two sentences:

"In 4 years of untiring and, in the fullest sense of the word, uninterrupted work of training, he succeeds in developing the young U-boat armed personnel and material till it is a weapon of a striking power unexpected even by the experts. More than 3 million gross tons of enemy shipping sunk in only 1 year, achieved with only a few boats, speak better than words of the merits of this man."

The next document in the document book, 1463-PS, which I put in as Exhibit GB-184, is an extract from the diary for the German Navy, 1944 edition, and it serves to emphasize the contents of that last document. My Lord, I won't read from it. The relevant passage is on Page 2, and if I might summarize that, it describes in detail the defendant's work in building up the U-boat arm, his ceaseless work in training night and day to close the gap of 17 years during which no training had taken place, his responsibility for new improvements, and for devising the "pack" tactics which were later to become so famous. And then his position is summarized further at the top of Page 3. If I might read the last two sentences of the first paragraph on that page:

"In spite of the fact that his duties took on immeasurable proportions since the beginning of the huge U-boat construction program, the chief was what he always was and always will be: leader and inspiration to all the forces under him."

And then the last sentence of that paragraph:

"In spite of all his duties, he never lost touch with his men; and he showed a masterly understanding in adjusting himself to the changing fortunes of war."

It was not, however, only his ability as a naval officer which won the defendant these high honors: his promotion to succeed the Defendant Raeder as Commander-in-Chief of the Navy, the personal position he acquired as one of Hitler's principal advisers, and finally, earlier candidates, such as Göring, having betrayed Hitler's trust or finding the position less attractive than they had anticipated, the doubtful honor of becoming Hitler's successor. These he owed to his fanatical adherence to Hitler and to the Party, to his belief in the Nazi ideology with which he sought to indoctrinate the Navy and the German people, and to his masterly understanding in adjusting himself to the changing fortunes of war, referred to in the diary and which the Tribunal may think, when I have referred them to the document, may be regarded as synonymous with the capacity for utter ruthlessness. His attitude to the Nazi Party and its creed is shown by his public utterances.

I turn to the next document in the document book, D-443, which I put in to become Exhibit GB-185. It is an extract from a speech

made by the defendant at a meeting of commanders of the Navy in Weimar on the 17th of December 1943. It was subsequently circulated by the defendant as a top-secret document for senior officers only and by the hand of officers only. My Lord, if I might read:

"I am a firm adherent of the idea of ideological education. For what is it in the main? Doing his duty is a matter of course for the soldier. But the full value, the whole weight of duty done, is only present when the heart and spiritual conviction have a voice in the matter. Doing his duty is then quite different from what it would be if I only carried out my task literally, obediently, and faithfully. It is therefore necessary for the soldier to support the execution of his duty with all his mental, all his spiritual energy; and for this his conviction, his ideology are indispensable. It is therefore necessary for us to train the soldier uniformly, comprehensively, that he may be adjusted ideologically to our Germany. Every dualism, every dissension in this connection, or every divergence or unpreparedness imply a weakness in all circumstances. He in whom this grows and thrives in unison is superior to the other. Then indeed the whole importance, the whole weight of his conviction comes into play. It is also nonsense to say that the soldier or the officer must have no politics. The soldier embodies the state in which he lives, he is the representative, the articulate exponent of his state. He must therefore stand with his whole weight behind this state.

"We must travel this road out of our deepest conviction. The Russian travels along it. We can only maintain ourselves in this war if we take part in it, with holy zeal, with all our fanaticism. . . .

"I alone cannot do this, but it can be done only with the aid of the man who holds the production of Europe in his hand—with Minister Speer. My ambition is to have as many warships for the Navy as possible so as to be able to fight and to strike. It does not matter to me who builds them."

My Lord, that last sentence is of importance in connection with a later document. The Tribunal will see when I come to it that the defendant was not above employing concentration camp labor for this purpose.

I put in the next document in the document book, D-640, which becomes Exhibit GB-186. It is an extract from a speech on the same subject by the defendant as Commander-in-Chief of the Navy to the Commanders on the 15th of February 1944. My Lord, it is cumulative except that I think the last two sentences add, if I might read them:

"From the very start the whole of the officer corps must be so indoctrinated that it feels itself co-responsible for the National Socialist State in its entirety. The officer is the exponent of the State, the idle chatter that the officer is non-political is sheer nonsense."

Now, the next document is 2878-PS, which I put in to become Exhibit GB-187. It consists of three extracts from speeches. The first is from a speech made by the defendant to the German Navy and the German people on Heroes' Day, the 12th of March 1944.

"German men and women!

"... What would have become of our country today, if the Führer had not united us under National Socialism! Split into parties, beset with the spreading poison of Jewry and vulnerable to it, and lacking, as a defense, our present uncompromising ideology, we would long since have succumbed to the burdens of this war and been subject to the merciless destruction of our adversaries...."

My Lord, the next extract is from a speech to the Navy on the 21st of July 1944. It again shows the defendant's fanaticism. It is perhaps worth reading the first sentence:

"Men of the Navy! Holy wrath and unlimited anger fill our hearts because of the criminal attempt which was to have cost the life of our beloved Führer. Providence wished it otherwise, watched over and protected our Führer, and did not abandon our German fatherland in the fight for its destiny."

And then he goes on to deal with the fate which should be meted out to these traitors.

The third extract deals with the introduction of the German salute into the Armed Forces. I don't think I need read it, but as the members of the Tribunal will see, it was the Defendant Keitel and this defendant who were responsible for the alteration of the salute in the German forces and the adoption of the Nazi salute—together with Göring... Pardon, I should have said: the Defendants Göring, Keitel, and Dönitz.

The next document is a monitored report of the speech made on the German wireless by this defendant, announcing the death of Hitler and his own succession. It is Document D-444. I put it in to become Exhibit GB-188, and I read a portion of it. The time is 2226—marked on the document. I read therefrom:

"It has been reported from the Führer's headquarters that our Führer Adolf Hitler has died this afternoon in his battle headquarters at the Reich Chancellery, fallen for Germany, fighting to the last breath against Bolshevism.

"On the 30th of April the Führer nominated Grossadmiral Dönitz to be his successor. The Grossadmiral and Führer's successor will speak to the German nation."

And then, the first paragraph of the speech:

"German men and women, soldiers of the German Armed Forces. Our Führer Adolf Hitler is dead. The German people bow in deepest sorrow and respect. Early he had recognized the terrible danger of Bolshevism and had dedicated his life to the fight against it. His fight having ended, he died a hero's death in the capital of the German Reich, after having led an unmistakably straight and steady life."

Then, that document also contains an order of the day issued by the defendant, which is very much to the same effect.

Apart from his services in building up the U-boat arm, there is ample evidence that the defendant as officer commanding U-boats took part in the planning and execution of aggressive war against Poland, Norway, and Denmark. The next document in the document book, C-126(c), has already been put in as Exhibit GB-45. It is a memorandum by the Defendant Raeder, dated the 16th of May 1939, and I will call the attention of the Tribunal to the distribution. The sixth copy went to the Führer der Unterseeboote, that is to say, to the Defendant Dönitz. The document is a directive for the invasion of Poland, Fall Weiss, and I won't read it. It has already been read.

The next document, C-126(e), on the second page of that same document, has also been put in as Exhibit GB-45. It again is a memorandum from the Defendant Raeder's headquarters, dated the 2d of August 1939. It is addressed to the fleet, and then Flag Officer U-boats—that is, of course, the defendant . . . and it is merely a covering letter for operational directions for the employment of U-boats which are to be sent out into the Atlantic by way of precaution in the event the intention of carrying out Fall Weiss should remain unchanged. The second sentence is important:

"Flag Officer U-boats is handing in his operation orders to SKL"—that is the Seekriegsleitung, the German Admiralty—"by 12 August. A decision on the sailings of U-boats for the Atlantic will probably be made in the middle of August."

The next document, C-172, I put in as Exhibit GB-189. It consists of the defendant's own operational instructions to his U-boats for the operation Fall Weiss. It is signed by him. It is not dated, but it is clear from the subject matter that its date must be before the 16th of July 1939. I don't think the substance of the document adds. It is purely an operational instruction, giving effect to the document already put in, C-126(c), the directive by Raeder.

My Lord, the next document, C-122, has already been put in as Exhibit GB-82. It is an extract from the War Diary of the naval

war staff of the German Admiralty, dated the 3rd of October 1939, and records the fact that the chief of the naval war staff has called for views on the possibility of taking operational bases in Norway. It has already been read and I would merely call the Tribunal's attention to the passage in brackets, in the paragraph marked "d":

> "Flag Officer U-boats already considers such harbors extremely useful as equipment and supply bases for Atlantic U-boats to call at temporarily."

The next document, C-5, has already been put in as Exhibit GB-83. This is from the defendant, as Flag Officer U-boats, addressed to the Supreme Command of the Navy, the naval war staff. It is dated the 9th of October 1939, and it sets out the defendant's view on the advantages of Trondheim and Narvik as bases. The document proposes the establishment of a base at Trondheim with Narvik as an alternative.

Now the next document, C-151, has already been put in as Exhibit GB-91. It is the defendant's operation order to his U-boats for the occupation of Denmark and Norway, and the operation order, which is top secret, dated the 30th of March 1940, is termed "Hartmut." The members of the Tribunal will remember that the document, in the last paragraph, said:

> "The naval force will, as they enter the harbor, fly the British flag until the troops have landed, except presumably at Narvik."

The preparations for war against England are perhaps best shown by the disposition of the U-boats under his command on the 3rd of September 1939, when war broke out between Germany and the Western Allies. The locations of the sinkings in the following week, including that of the *Athenia* which will be dealt with by my learned friend, Major Elwyn Jones, provide corroboration. On that, I would put in two charts; I put them in as Document D-652, and they become Exhibit GB-190.

My Lord, I have copies here for the members of the Tribunal. They have been prepared by the Admiralty. There are two charts. The first sets out the disposition of the submarines on the 3rd of September 1939. There is a certification attached to the chart, in the top left-hand corner, which I should read:

> "This chart has been constructed from a study of the orders issued by Dönitz between 21 August 1939 and 3 September 1939 and subsequently captured. The chart shows the approximate disposition of submarines ordered for the 3rd of September 1939 but it cannot be guaranteed accurate in every detail as the files of captured orders are clearly not complete and also some of the submarines shown apparently had

received orders at sea on or about 3 September to move to new operational areas. The documents from which this chart was constructed are held by the British Admiralty in London."

My Lord, there are two points I would make on that first chart. First, it will be apparent to members of the Tribunal that U-boats which were in those positions on the 3rd of September 1939 had left Kiel some considerable time before. The other point which I would make is important in connection with my learned friend Major Elwyn Jones' case against the Defendant Raeder, and that is the location of the U-boat *U-30*. The members of the Tribunal may care to bear it in mind while looking at the charts now.

The second chart sets out the sinkings during the first week of the war, and the location of the sinking of the *Athenia* will be noted. There is a short certification in the left-hand corner of the Tribunal's copies:

"This chart has been constructed from the official records of the British Admiralty in London. It shows the positions of the sinkings of the British merchant vessels lost by enemy action in the 7 days commencing the 3rd of September 1939."

My Lord, I turn to the defendant's participation in War Crimes and Crimes against Humanity.

The course of the war waged against neutral and Allied merchant shipping by the U-boats followed under the defendant's direction a course of consistently increasing ruthlessness. The defendant displayed his masterly understanding in adjusting himself to the changing fortunes of war. From the very early days, merchant ships, both Allied and neutral, were sunk without warning; and when operational danger zones had been announced by the German Admiralty, these sinkings continued to take place both within and without those zones. With some exceptions in the early days of the war, no regard was taken for the safety of the crews or passengers of sunk merchant ships, and the announcement claiming a total blockade of the British Isles merely served to confirm the established situation under which U-boat warfare was being conducted without regard to the established rules of international warfare or the requirements of humanity.

The course of the war at sea during the first 18 months is summarized by two official British reports made at a time when those who compiled them were ignorant of some of the actual orders issued which have since come to hand.

My Lord, I turn to the next document in the document book. It is Document D-641(a), which I put in to become Exhibit GB-191. It is an extract from an official report of the British Foreign Office concerning German attacks on merchant shipping during the period

3 September 1939 to September 1940, that is to say, the first year of the war, and it was made shortly after September 1940.

My Lord, if I might quote from the second paragraph on the first page:

"During the first 12 months of the war, 2,081,062 tons of Allied shipping comprising 508 ships have been lost by enemy action. In addition, 769,213 tons of neutral shipping, comprising 253 ships, have also been lost. Nearly all these merchant ships have been sunk by submarine, mine, aircraft, or surface craft, and the great majority of them were sunk while engaged on their lawful trading voyages. 2,836 Allied merchant seamen have lost their lives in these ships....

"In the last war the practice of the central powers was so remote from the recognized procedure that it was thought necessary to set forth once again the rules of warfare in particular as applied to submarines. This was done in the Treaty of London, 1930; and in 1936 Germany acceded to the rules. The rules laid down:

"(1) In action with regard to merchant ships, submarines must conform to the rules of international law to which surface vessels are subjected.

"(2) In particular, except in the case of persistent refusal to stop on being summoned or of active resistance to visit and search, a war ship, whether surface vessel or submarine, may not sink or render incapable of navigation a merchant vessel without having first placed passengers, crew, and ships' papers in a place of safety. For this purpose, the ship's boats are not regarded as a place of safety unless the safety of the passengers and crew is assured in the existing sea and weather conditions by the proximity of land or the presence of another vessel which is in a position to take them on board."

Then, the next paragraph:

"At the beginning of the present war, Germany issued a prize ordinance for the regulation of sea warfare and the guidance of her naval officers. Article 74 of this ordinance embodies the submarine rules of the London Treaty. Article 72, however, provides that captured enemy vessels may be destroyed if it seems inexpedient or unsafe to bring them into port, and Article 73 (i) and (ii) makes the same provision with regard to neutral vessels which are captured for sailing under enemy convoy, for forcible resistance, or for giving assistance to the enemy. These provisions are certainly not in accordance with the traditional British view but the important point is that, even in these cases, the prize

ordinance envisages the capture of the merchantman before its destruction. In other words, if the Germans adhered to the rules set out in their own prize ordinance, we might have argued the rather fine legal point with them, but we should have no quarrel with them, either on the broader legal issue or on the humanitarian one. In the event, however, it is only too clear that almost from the beginning of the war the Germans abandoned their own principles and waged war with steadily increasing disregard for international law, and for what is, after all, the ultimate sanction of all law, the protection of human life and property from arbitrary and ruthless attacks."

I pass to the third paragraph on the next page which sets out two instances:

"On the 30th of September 1939 came the first sinking of a neutral ship by a submarine without warning and with loss of life. This was the Danish ship *Vendia* bound for the Clyde in ballast. The submarine fired two shots and shortly after torpedoed the ship. The torpedo was fired when the master had already signaled that he would submit to the submarine's orders and before there had been an opportunity to abandon ship. By November submarines were beginning to sink neutral vessels without warning as a regular thing. On the 12th November the Norwegian *Arne Kjode* was torpedoed in the North Sea without any warning at all. This was a tanker bound from one neutral port to another. The master and four of the crew lost their lives and the remainder were picked up after many hours in open boats. Henceforward, in addition to the failure to establish the nature of the cargo, another element is noticeable, namely an increasing recklessness as to the fate of the crew."

And then dealing with attacks on Allied merchant vessels, certain figures are given: Ships sunk 241, recorded attacks 221, illegal attacks 112. At least 79 of these 112 ships were torpedoed without warning.

THE TRIBUNAL (Mr. Biddle): Then they were not illegally sunk, however?

COL. PHILLIMORE: Yes, Sir.

THE TRIBUNAL (Mr. Biddle): According to this document, the Germans have been given the benefit of the doubt.

COL. PHILLIMORE: Oh, yes, I should have read that sentence; I am obliged to Your Honor.

I pass to the second report, Document D-641(b). It is part of the same document and is put in as Exhibit GB-191. It is a report covering the next 6 months from September 1, 1940 . . .

THE PRESIDENT: Are you not reading Page 3?

COL. PHILLIMORE: If Your Lordship pleases, I have read a great deal of the report and there are passages that I had not considered important.

THE PRESIDENT: I haven't myself read it, but I think...

COL. PHILLIMORE: If I might read the first two paragraphs on Page 3:

> "By the middle of October submarines were sinking merchant vessels without any regard to the safety of the crews. Yet 4 months later the Germans were still officially claiming that they were acting in accordance with their prize ordinance. Their own semi-official commentators, however, had made the position clear. As regards neutrals, Berlin officials had early in February stated that any neutral ship that is either voluntarily or under compulsion bound for an enemy port —including contraband control harbors—thereby loses its neutrality and must be considered hostile. At the end of February the cat was let out of the bag by a statement that a neutral ship which obtained a navicert from a British consul in order to avoid putting into a British contraband control base was liable to be sunk by German submarines, even if it was bound from one neutral port to another. As regards Allied ships, in the middle of November 1939 a Berlin warning was issued against the arming of British vessels. By that date a score of British merchantmen had been illegally attacked by gunfire or torpedo from submarines, and after the date some 15 more unarmed Allied vessels were torpedoed without warning. It is clear therefore that not only was the arming fully justified as a defensive measure but also that neither before nor after this German threat did the German submarines discriminate between armed and unarmed vessels."

The last paragraph is merely a summing up; it does not add.

Turning to D-641(b), which is a similar report covering the next 6 months, if I might read the first five paragraphs of Page 1:

> "On the 30th January 1941 Hitler proclaimed: 'Every ship, with or without convoy, which appears before our torpedo tubes is going to be torpedoed. On the face of it, this announcement appears to be uncompromising; and the only qualification provided by the context is that the threats immediately preceding it are specifically addressed to the peoples of the American Continent. German commentators, however, subsequently tried to water it down by contending that Hitler was referring only to ships which attempted to

enter the area within which the German 'total blockade' is alleged to be in force.

"From one point of view it probably matters little what exactly was Hitler's meaning, since the only conclusion that can be reached after a study of the facts of enemy warfare on merchant shipping is that enemy action in this field is never limited by the principles which are proclaimed by enemy spokesmen, but solely by the opportunities or lack of them which exist at any given time."

THE PRESIDENT: Colonel Phillimore, isn't this document you are now reading really legal argument?

COL. PHILLIMORE: My Lord, some of it is. The difficulty is to leave those parts and take in the facts.

THE PRESIDENT: Very well.

COL. PHILLIMORE: The third paragraph, if I might leave the rest of the second, is as follows:

"The effect of the German 'total blockade' is to prohibit neutral ships from entering an enormous stretch of sea round Britain (the area extends to about 500 miles west of Ireland, and from the latitude of Bordeaux to that of the Faroe Islands), upon pain of having their ships sunk without warning and their crews killed. As a matter of fact, at least 32 neutral ships, exclusive of those sailing in British convoys, have been sunk by enemy action since the declaration of the 'total blockade.' "

The last sentence in the following paragraph about the sinking of ships without warning:

"Yet though information is lacking in very many cases, details are available to prove that, during the period under review, at least 38 Allied merchant ships exclusive of those in convoys have been torpedoed without warning in or near the 'total blockade' area.

"That the Germans themselves have no exaggerated regard for the area is proved by the fact that of the 38 ships referred to at least 16 were torpedoed outside the limits of the war zone."

My Lord, the next page deals with a specific case illustrating the matter set out above. It is in the first paragraph of that page, the third sentence:

"The sinking of the *City of Benares* on the 17th September 1940 is a good example of this. The *City of Benares* was an 11,000-ton liner with 191 passengers on board, including nearly 100 children. She was torpedoed without warning just outside the 'war zone,' with the loss of 258 lives, including

77 children. It was blowing a gale, with hail and rain squalls and a very rough sea when the torpedo struck her at about 10 p. m. In the darkness and owing to the prevailing weather conditions, at least four of the 12 boats lowered were capsized. Others were swamped and many people were washed right off. In one boat alone 16 people, including 11 children, died from exposure; in another 22 died, including 15 children; in a third 21 died. The point to be emphasized is not the unusual brutality of this attack but rather that such results are inevitable when a belligerent disregards the rules of sea warfare as the Germans have done and are doing."

I think the rest of that paragraph is not important.

I turn to the next document, 641(c), which is part of Exhibit GB-191.

THE PRESIDENT: It is clear, I suppose, from that statement of facts that there was no warning whatever given?

COL. PHILLIMORE: No, My Lord.

THE PRESIDENT: We think that you should read the next paragraph too.

COL. PHILLIMORE: If Your Lordship pleases.

"There are hundreds of similar stories, stories of voyages for days in open boats in Atlantic gales, of men in the water clinging for hours to a raft and gradually dropping off one by one, of crews being machine-gunned as they tried to lower their boats or as they drifted away in them, of seamen being blown to pieces by shells and torpedoes and bombs. The enemy must know that such things are the inevitable result of the type of warfare he has chosen to employ."

My Lord, the rest is very much to the same general effect.

The document, 641(c), is merely a certificate giving the total sinkings by U-boats during the war (1939 to 1945) as 2,775 British, Allied, and neutral ships totalling 14,572,435 gross registered tons.

My Lord, it is perhaps worth considering one example not quoted in the above reports of the ruthless nature of the actions conducted by the defendant's U-boat commanders, particularly as both British and German versions of the sinkings are available. I turn to the next document, "The sinking of S. S. *Sheaf Mead*." That is Document D-644, which I put in as Exhibit GB-192. If I might read the opening paragraph:

"The British S. S. *Sheaf Mead* was torpedoed without warning on 27 May 1940 . . ."

THE PRESIDENT: This is the German account, is it not?

COL. PHILLIMORE: This is actually in the form of a British report. It includes the German account in the shape of a complete extract from the log.

THE PRESIDENT: It bears the words, "top secret"?

COL. PHILLIMORE: Yes, My Lord, this was at the time a top-secret document. That was some while ago.

"The British *S. S. Sheaf Mead* was torpedoed without warning on 27 May 1940, with the loss of 31 of the crew. The commander of the U-boat responsible is reported to have behaved in an exceptionally callous manner towards the men clinging to upturned boats and pieces of wood. It was thought that this man was Kapitänleutnant Öhrn of *U-37*: The following extract from his log for 27 May 1940 leaves no doubt on the matter and speaks for itself as to his behaviour."

Again turning to the relevant extract from the log, on the second page, the time is marked on the document as 1554.

"Surface. Stern is underwater."—referring to the ship which has been torpedoed—"Stern is underwater. Bows rise higher. The boats are now on the water. Lucky for them. A picture of complete order. They lie at some distance. The bows rear up quite high. Two men appear from somewhere in the forward part of the ship. They leap and rush with great bounds along the deck down the stern. The stern disappears. A boat capsizes. Then a boiler explosion. Two men fly through the air, limbs outstretched. Bursting and crushing. Then all is over. A large heap of wreckage floats up. We approach it to identify the name. The crew have saved themselves on wreckage and capsized boats. We fish out a buoy. No name on it. I ask a man on the raft. He says, hardly turning his head, 'Nix Name.' A young boy in the water calls, 'Help, help, please!' The others are very composed. They look damp and somewhat tired. An expression of cold hatred is on their faces. On to the old course. After washing the paint off the buoy, the name comes to light: Greatafield, Glasgow, 5,006 gross registered tons."

"On to the old course" means merely that the U-boat makes off.

Then the next page of that document contains an extract from the report of the chief engineer of the *Sheaf Mead*. The relevant paragraphs are the first and the last:

"When I came to the surface I found myself on the port side, that is, nearest to the submarine, which was only about 5 yards away. The submarine captain asked the steward the name of the ship, which he told him, and the enemy picked up one of our lifebuoys, but this had the name

Greatafield on it, as this was the name of our ship before it was changed to *Sheaf Mead* last January."

In the last paragraph:

"She had cut-away bows, but I did notice a net-cutter. Two men stood at the side with boat-hooks to keep us off.

"They cruised around for half an hour, taking photographs of us in the water. Otherwise they just watched us, but said nothing. Then she submerged and went off, without offering us any assistance whatever."

THE PRESIDENT: Is there any suggestion in the German report that any warning was given?

COL. PHILLIMORE: No, My Lord. It is quite clear, indeed, that it was not.

Under the time 1414 there is a description of the sighting of the ship and the difficulty in identifying; and then at the top of the page:

"The distance apart is narrowing. The steamship draws in quickly, but the position is still 40-50. I cannot see the stern yet. Tube ready. Shall I or not? The gunnery crews are also prepared. On the ship's side a yellow cross in a small, square, dark blue ground. Swedish? Presumably not. I raise the periscope a little. Hurrah, a gun at the stern, an A/A gun or something similar. Fire! It cannot miss . . ."—and then the sinking.

Now that it is possible to examine some of the actual documents by which the defendant and his fellow conspirators issued their orders in disregard of international law, you may think the compilers of the above reports understated the case. These orders cover not only the period referred to in the reports, but also the subsequent course of the war. It is interesting to note in them the steps by which the defendants progressed. At first they were content with breaching the rules of international law to the extent of sinking merchant ships, including neutral ships, without warning where there was a reasonable prospect of being able to do so without discovery. The facts already quoted show that the question of whether ships were defensively armed or outside the declared operational areas was in practice immaterial.

I go to the next document in the document book, C-191, which I put in as Exhibit GB-193. That is a memorandum by the German naval war staff, dated 22 September 1939. It sets out:

"Flag Officer U-boats intends to give permission to U-boats to sink without warning any vessels sailing without lights."

Reading from the third sentence:

"In practice there is no opportunity for attacking at night, as the U-boat cannot identify a target which is a shadow in a way that entirely obviates mistakes being made. If the political situation is such that even possible mistakes must be ruled out, U-boats must be forbidden to make any attacks at night in waters where French and English naval forces or merchant ships may be situated. On the other hand, in sea areas where only English units are to be expected, the measures desired by Flag Officer U-boats can be carried out; permission to take this step is not to be given in writing, but need merely be based on the unspoken approval of the Naval Operations Staff.

"U-boat commanders should be informed by word of mouth, and the sinking of a merchant ship must be justified in the War Diary as due to possible confusion with a warship or an auxiliary cruiser. In the meanwhile, U-boats in the English Channel have received instructions to attack all vessels sailing without lights."

Now I go to the next document, C-21, which I put in as Exhibit GB-194. My Lord, this document consists of a series of extracts from the War Diary of the German naval war staff of the German Admiralty. The second extract, at Page 5, relates a conference with the head of the naval war staff, report of the 2 January 1940, and then reading:

"1) Report by Ia"—that is the Staff Officer Operations on the naval war staff . . .

THE PRESIDENT: Shouldn't you read above that, Paragraph 1/b?

COL. PHILLIMORE: Yes, if Your Lordship pleases. It is important. The others are much to the same effect. If I might read it:

"Report by Ia."—This is one report by Ia on the directive of Armed Forces High Command of 30 December.

"According to this, the Führer, on report of Commander-in-Chief of the Navy, has decided: (a) Greek merchant vessels are to be treated as enemy vessels in the zone blockaded by U.S.A. and Britain; (b) in the Bristol Channel all ships may be attacked without warning. For external consumption these attacks should be given out as hits by mines. Both measures may be taken with immediate effect."

The next extract, a report by Ia, that is, the Staff Officer Operations on the naval war staff on the directive of Armed Forces High Command, dated 30 December:

"Referring to intensified measures in naval and air warfare in connection with 'Fall Gelb'.

"In consequence of this directive, the Navy is authorized, simultaneously with the general intensification of the war, to sink by U-boats, without any warning, all ships in those waters near the enemy coasts in which mines can be employed. In this case, for external consumption, pretence should be made that mines are being used. The behaviour of, and use of weapons by, U-boats should be adapted to this purpose."

And then the third extract, dated 6 January 1940:

"... pursuant to the Führer's consent on principle (see minutes of report of Commander-in-Chief Navy of 30 December) to authorize firing without warning while maintaining the pretence of mine hits in certain parts of the American blockade zone...."

Well, then the order is given to Flag Officer U-boats carrying out that decision.

The next extract, dated the 18th of January 1940, adds to some extent, and if I may read it:

"The High Command of the Armed Forces has issued the following directive dated 17th of January, cancelling the previous order concerning intensified measures of warfare against merchantmen.

"The Navy is authorized, with immediate effect, to sink by U-boats without warning all ships in those waters near the enemy coasts in which the use of mines is possible."—My Lord, that is an extension of the area.—"U-boats must adapt their behavior and employment of weapons to the pretence, which is to be maintained in these cases, that the hits were caused by mines. Ships of the United States, Italy, Japan, and Russia are exempted from these attacks."

Well, then there is a note emphasizing the point about maintaining the pretense of mine hits and the last extract is, I think, purely cumulative.

The next document, C-118, I put in as Exhibit GB-195. This is an extract from the B.d.U. War Diary, that is to say the defendant's war diary. It is dated the 18th of July 1941, and it consists of a further extension of that order by the cutting down of the protected categories.

"Supplementary to the order forbidding, for the time being, attacks on U.S. warships and merchant vessels in the operational area of the North Atlantic, the Führer has ordered the following:

"1. Attacks on U.S. merchant vessels sailing in British or U.S. convoys, or independently are authorized in the original

operational area which corresponds in its dimensions to the U.S. blockade zone and which does not include the sea-route U.S. to Iceland."

As the members of the Tribunal will have seen from these orders, at one date the ships of a particular neutral under certain conditions could be sunk while those of another could not. It would be easy to put before the Tribunal a mass of orders and instances to show that the attitude to be adopted toward ships of particular neutrals changed at various times. The point is that the defendant conducted the U-boat war against neutrals with complete cynicism and opportunism. It all depended on the political relationship of Germany toward a particular country at a particular time whether her ships were sunk or not.

My Lord, I turn to the next document in the document book, D-642, which I put in as Exhibit GB-196. My Lord, this is a series of orders; the first, I should say, of a series of orders leading up to the issue of an order which enjoined the U-boat commanders not merely to abstain from rescuing crews, which is the purpose of this order, not merely to give them no assistance but deliberately to annihilate them.

My Lord, in the course of my proof of this matter, I shall call two witnesses. The first witness will give the Court an account of a speech made by the defendant at the time that he issued the order describing the policy, or his policy toward the recovery of Allied troops: that it must be stopped at all costs.

The second witness is the officer who actually briefed crews on the order.

My Lord, this document is an extract from the standing orders of the U-boat command, an extract from Standing Order Number 154, and it is signed by the defendant:

"Paragraph e) Do not pick up men or take them with you. Do not worry about the merchant ship's boats. Weather conditions and distance from land play no part. Have a care only for your own ship and strive only to attain your next success as soon as possible. We must be harsh in this war. The enemy began the war in order to destroy us, so nothing else matters."

THE PRESIDENT: What is the date of that?

COL. PHILLIMORE: My Lord, that order, the copy we have, is not dated, but a later order, Number 173, which was issued concurrently with an operational order, is dated the 2d of May 1940. The Tribunal may take it, it is earlier than the 2d of May 1940. My Lord, that is a secret order.

THE PRESIDENT: Earlier than May 1940?

COL. PHILLIMORE: Earlier than May 1940.

It was, however, in 1942, when the United States entered the war with its enormous ship-building capacity, that the change thus brought about necessitated a further adjustment in the methods adopted by the U-boats and of the defendant; and the defendant was guilty of an order which intended not merely the sinking of merchant ships, not merely the abstention from rescue of the crews, but their deliberate extermination.

My Lord, the next document in the document book shows the course of events, Document D-423, and I put it in as Exhibit GB-197. It is a record of a conversation between Hitler and the Japanese Ambassador Oshima, in the presence of the Defendant Ribbentrop, on the 3 of January 1942.

> "The Führer, using a map, explains to the Japanese Ambassador the present position of marine warfare in the Atlantic, emphasizing that what he considers his most important task is to get the U-boat warfare going in full swing. The U-boats are being re-organized. Firstly, he had recalled all U-boats operating in the Atlantic. As mentioned before, they would now be posted outside United States ports. Later, they would be off Freetown and the larger boats even as far down as Capetown."

And then, after further details:

> "After having given further explanations on the map, the Führer pointed out that, however many ships the United States built, one of their main problems would be the lack of personnel. For that reason even merchant ships would be sunk without warning with the intention of killing as many of the crew as possible. Once it gets around that most of the seamen are lost in the sinkings, the Americans would soon have difficulties in enlisting new people. The training of sea-going personnel takes a very long time. We are fighting for our existence and our attitude cannot be ruled by any humane feelings. For this reason he must give the order that in case foreign seamen could not be taken prisoner, which is in most cases not possible on the sea, U-boats were to surface after torpedoing and shoot up the lifeboats.
>
> "Ambassador Oshima heartily agreed with the Führer's comments, and said that the Japanese, too, are forced to follow these methods."

My Lord, the next document, D-446, I put in as Exhibit GB-198. I do not propose to read it. It is an extract from B. d. U. War Diary of the 16th of September 1942; and it is part of the story in the sense that it was on the following day that the order I complain of was issued, and the Defense will, no doubt, wish to rely on it. It records an attack on a U-boat which was rescuing survivors, chiefly

the Italian survivors of the Allied liner *Laconia,* when it was attacked by an Allied aircraft.

My Lord, the next document, D-630, I put in as Exhibit GB-199. It contains four documents. The first is a top-secret order, sent to all commanding officers of U-boats from the defendant's headquarters, dated 17th of September 1942:

"1. No attempt of any kind must be made at rescuing members of ships sunk; and this includes picking up persons in the water and putting them in lifeboats, righting capsized lifeboats and handing over food and water. Rescue runs counter to the rudimentary demands of warfare for the destruction of enemy ships and crews.

"2. Orders for bringing in captains and chief engineers still apply.

"3. Rescue the shipwrecked only if their statements will be of importance to your boat.

"4. Be harsh, having in mind that the enemy takes no regard of women and children in his bombing attacks on German cities."

Now, My Lord, that is, of course, a very carefully worded order. Its intentions are made very clear by the next document on that same page, which is an extract from the defendant's war diary; and I should say there, as appears from the copy handed in to the Court, the war diary is personally signed by the Defendant Dönitz. It is the war diary entry for the 17th of September 1942:

"The attention of all commanding officers is again drawn" —and I would draw the Tribunal's attention to the word "again"—"to the fact that all efforts to rescue members of the crews of ships which have been sunk contradict the most primitive demands for the conduct of warfare for annihilating enemy ships and their crews. Orders concerning the bringing in of the captains and chief engineers still stand."

The last two documents on that page consist of a telegram from the commander of the U-boat *Schacht* to the defendant's headquarters and the reply. *Schacht* had been taking part in the rescue of survivors from the *Laconia.* The telegram from *Schacht,* dated the 17th of September 1942, reads:

"163 Italians handed over to *Annamite.* Navigating officer of *Laconia* and another English officer on board."

And then it goes on setting out the position of English and Polish survivors in boats.

The reply sent on the 20th:

"Action as in wireless telegram message of 17th of September was wrong. Boat was detailed to rescue Italian allies and not for the rescue of English and Poles."

It is a small point, but of course "detailed" means before the bombing incident had ever occurred.

And then as for the next document, D-663, that was issued later and may not yet have been inserted in the Tribunal's Document Book; D-663 I put in as Exhibit GB-200. My Lord, this is an extract from an operation order, "Operation Order Atlantic Number 56," dated the 7th of October 1943, and the copy put in is part of sailing orders to a U-boat. As I shall prove through the second witness, although the date of this order is the 7th of October 1943, in fact it is only a reproduction of an order issued very much earlier, in the autumn of 1942.

> "Rescue ships: A so-called rescue ship is generally attached to every convoy, a special ship of up to 3,000 gross registered tons, which is intended for the picking up of survivors after U-boat attacks. These ships are for the most part equipped with a shipborne aircraft and large motorboats, are strongly armed with depth charge throwers, and are very maneuverable, so that they are often taken for U-boat traps by the commander."

And then, the last sentence:

> "In view of the desired destruction of ships' crews, their sinking is of great value."

If I might just sum up those documents, it would appear from the War Diary entry of the 17th of September that orders on the lines discussed between Hitler and Oshima were, in fact, issued, but we have not captured them. It may be they were issued orally and that the defendant awaited a suitable opportunity before confirming them. The incident of the bombing of the U-boats detailed to rescue the Italian survivors from the *Laconia* afforded the opportunity and the order to all commanders was issued. Its intent is very clear when you consider it in the light of the War Diary entry. The wording is, of course, extremely careful but to any officer of experience its intention was obvious and he would know that deliberate action to annihilate survivors would be approved under that order.

You will be told that this order, although perhaps unfortunately phrased, was merely intended to stop a commander from jeopardizing his ship by attempting a rescue, which had become increasingly dangerous, as a result of the extended coverage of the ocean by Allied aircraft; and that the notorious action of the U-boat Commander Eck in sinking the Greek steamer *Peleus* and then machine-gunning the crew on their rafts in the water, was an exception; and that, although it may be true that a copy of the order was on board, this action was taken solely, as he himself swore, on his own initiative.

I would make the point to the Tribunal that if the intention of this order was to stop the rescue attempts in the interests of the preservation of the U-boat, first of all it would have been done by calling attention to Standing Order 154.

Second, this very fact would have been prominently stated in the order. Drastic orders of this nature are not drafted by experienced staff officers without the greatest care and an eye to their possible capture by the enemy.

Third, if it was necessary to avoid the risks attendant on standing by or surfacing, not only would this have been stated but there would have been no question of taking any prisoners at all except possibly in circumstances where virtually no risk in surfacing was to be apprehended.

Fourth, the final sentence of the first paragraph would have read very differently.

And fifth, if, in fact—and the Prosecution do not for one moment accept it—the defendant did not mean to enjoin murder, his order was so worded that he cannot escape the responsibility which attaches to such a document.

My Lord, I would call my first witness, Peter Heisig.

[The witness, Peter Josef Heisig, took the stand.]

THE PRESIDENT: What is your name?

PETER JOSEF HEISIG (Witness): My name is Peter Josef Heisig.

THE PRESIDENT: Say this: "I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold nothing and add nothing."

[The witness repeated the oath in German.]

COL. PHILLIMORE: Peter Josef Heisig, are you an Oberleutnant zur See in Germany?

HEISIG: I am Oberleutnant zur See in the German Navy.

COL. PHILLIMORE: And were you captured on the 27th of December 1944, and now held as a prisoner of war?

HEISIG: Yes.

COL. PHILLIMORE: Did you swear an affidavit on the 27th of November 1945?

HEISIG: Yes.

COL. PHILLIMORE: And is that your signature? *[Document D-566 was submitted to the witness.]*

My Lord, that is the Document D-566.

HEISIG: That is the document I signed.

COL. PHILLIMORE: I put that in as Exhibit GB-201.

[Turning to the witness.] Will you take your mind back to the autumn of 1942? What rank did you hold at that time?

HEISIG: I was senior midshipman at the 2d U-boat Training Division.

COL. PHILLIMORE: Were you attending a course there?

HEISIG: I took part in the training course for U-boat officers of the watch.

COL. PHILLIMORE: Do you remember the last day of the course?

HEISIG: On the last day of the course, Grossadmiral Dönitz, who was then Commander-in-Chief of the U-boats, reviewed the 2d U-boat Training Division.

COL. PHILLIMORE: And what happened at the end of this tour?

HEISIG: At the end of his visit—not at the end but rather during his visit—Grossadmiral Dönitz made a speech before the officers of the 2d U-boat Training Division.

COL. PHILLIMORE: Can you fix the date of his visit?

HEISIG: I remember the approximate date; it must have been at the end of September or the beginning of October 1942.

COL. PHILLIMORE: Now, will you give the Tribunal—speaking slowly—an account of what Admiral Dönitz said in his speech?

HEISIG: Grossadmiral Dönitz said in his speech that the successes of the U-boats had declined. The strength of enemy air control was responsible for that decline. New antiaircraft guns had been developed which would in future make it possible for the U-boats to fight off enemy aircraft. Hitler had personally given him the assurance that U-boats would be equipped with these antiaircraft guns before all other branches of the Armed Forces. It could be expected therefore that the successes of former times would be reached again within a few months. After speaking about his good relations with Hitler, Grossadmiral Dönitz discussed the German armament program.

A question by an officer regarding a newspaper article which stated that the Allied countries were building more than a million tons of merchant shipping every month, Admiral Dönitz answered by saying that he doubted the credibility of this estimate and said it was based on an announcement by President Roosevelt. He then spoke briefly about President Roosevelt, about the American production program and armament potential, and added that the Allies had great difficulty in manning their ships. Allied seamen considered the route across the Atlantic dangerous, because German

U-boats were sinking Allied ships in great numbers. Many of the Allied seamen had been torpedoed more than once; these facts spread and make the seamen reluctant to go to sea again. Some of them were even trying to shirk a crossing of the Atlantic, so that the Allied authorities were compelled, if it became necessary, to retain the men aboard by force of law. Such indications were favorable to the Germans. From the facts that, firstly, the Allies were building very many new merchant ships and, secondly, that the Allies were having considerable difficulties in manning these newly built ships, Admiral Dönitz concluded that the question of personnel was a very grave matter for the Allies. The losses in men affected the Allies especially seriously, because they had few reserves and also because . . .

COL. PHILLIMORE: I don't want to interrupt you, but did he say anything about rescues at all? You have told us about the Allied losses and how serious they were.

HEISIG: Yes, he mentioned rescues, but I would like to speak about that later.

Grossadmiral Dönitz said that the losses of the Allies affected them very seriously, because they had no reserves and also because the training of new seamen required a very long time. He could not, therefore, understand it, if submarines were still . . .

THE PRESIDENT: Colonel Phillimore, just a moment. I don't think we want to hear the whole of Admiral Dönitz' speech. We want to hear the material part of it.

COL. PHILLIMORE *[to the witness.]:* Now, you have dealt with the question of losses. Will you come to the crucial part of the speech, at the end, and deal with that? What did the Grand Admiral go on to say?

DR. THOMA: The testimony of the witness does not concern me directly, but I have an objection to raise. According to German law and according to the German Code of Criminal Procedure, the witness must say everything he knows about a matter. If he is asked about a speech of Grossadmiral Dönitz, he must not, at least according to German law, relate only those parts which, in the opinion of the Prosecution, are unfavorable to the defendant. I believe this principle should also apply in these proceedings, whenever a witness is questioned.

THE PRESIDENT: The Tribunal is not bound by German law. I have already said that the Tribunal does not desire to hear from this witness all of Admiral Dönitz' speech.

It will be open to any of the counsel for the defendants to cross-examine this witness. Your intervention is therefore entirely unnecessary.

COL. PHILLIMORE *[to the witness.]:* Now, will you deal with the crucial parts of the Grand Admiral's speech?

HEISIG: Grossadmiral Dönitz continued, saying approximately that under the circumstances he could not understand how German U-boats could still rescue the crews of the merchant ships they had sunk, thereby endangering their own ships. By doing that, they were working for the enemy, since these rescued crews would sail again on new ships.

The stage had now been reached in which total war had to be waged also at sea. The crews of ships, like the ships themselves, were a target for the U-boats; thus it would be impossible for the Allies to man their newly built ships; and moreover it could then be expected that in America and the other Allied countries a strike would break out, for already a part of the seamen did not want to go back to sea.

These results could be expected if our tactics would render the war at sea more vigorous. If any of us consider this war or these tactics harsh we should also remember that our wives and our families at home are being bombed.

That, in its main points, was the speech of Grossadmiral Dönitz.

COL. PHILLIMORE: Now, about how many officers were present and heard that speech?

HEISIG: I have no experience in fixing the number of people present at large indoor gatherings. I can only give you a rough estimate: approximately 120 officers.

COL. PHILLIMORE: My Lord, the witness is available for cross-examination.

THE PRESIDENT: Does the United States prosecutor wish to ask any question?

[There was no response.]

The Soviet prosecutor?

[There was no response.]

The French prosecutor?

[There was no response.]

Now, any of the defendants' counsel may cross-examine the witness.

FLOTTENRICHTER OTTO KRANZBÜHLER (Counsel for Defendant Dönitz): I represent Grossadmiral Dönitz.

THE PRESIDENT: Counsel will understand that what I said to Dr. Thoma was not intended to interfere with your cross-examination; it was only intended to save time. The Tribunal did not desire to hear unimportant passages in the Defendant Dönitz'

speech. Therefore, they did not want to hear them from this witness. However, you are at liberty to ask any questions that you please.

FLOTTENRICHTER KRANZBÜHLER: Oberleutnant Heisig, did you yourself take part in an action against the enemy?

HEISIG: Yes.

FLOTTENRICHTER KRANZBÜHLER: On which boat were you, and who was your commander?

HEISIG: I was on U-877, under Kapitänleutnant Finkeisen.

FLOTTENRICHTER KRANZBÜHLER: Please repeat your answer.

HEISIG: I served on U-877 in an action against the enemy, and the commander was Kapitänleutnant Finkeisen.

FLOTTENRICHTER KRANZBÜHLER: Were you successful in action against enemy ships?

HEISIG: The boat was sunk on its way to the area of operations.

FLOTTENRICHTER KRANZBÜHLER: Before you were able to sink an enemy ship?

HEISIG: Yes.

FLOTTENRICHTER KRANZBÜHLER: How was the boat sunk?

HEISIG: By depth charges. Two Canadian frigates sighted the U-boat and destroyed it through depth charges.

FLOTTENRICHTER KRANZBÜHLER: Your testimony today differs in an essential point from the statement you made on the 27th of November. How did you come to make this statement of the 27th of November?

HEISIG: I made the statement in defense of my comrades who were put before a military court in Hamburg and sentenced to death for the murder of shipwrecked sailors.

FLOTTENRICHTER KRANZBÜHLER: Your statement begins by saying that you had received reports that German sailors were being accused of murder and that you therefore considered it your duty to depose the following affidavit.

What reports had you received, and when?

HEISIG: At the beginning of the Hamburg proceedings against Kapitänleutnant Eck and his officers I was a prisoner of war in Great Britain; there I heard on the radio and read in newspapers that these officers were to be tried. Since I knew one of the accused officers, Leutnant August Hoffmann, very well and had spoken with him on this subject on two or three occasions, I considered it to be my duty to come to his assistance and to his defense.

FLOTTENRICHTER KRANZBÜHLER: Were you not told in your interrogation on the 27th of November that the death sentence against Eck and Hoffmann had already been confirmed?

HEISIG: That—I don't remember whether it was on the 27th of November, I only remember that I was told here that the death sentence had been carried out. I no longer remember the date, as I was interrogated several times.

FLOTTENRICHTER KRANZBÜHLER: Since you have knowledge of the circumstances, do you maintain that the speech of Grossadmiral Dönitz mentioned in any way that fire should be opened on shipwrecked sailors?

HEISIG: No; we gathered that from his words; and from his reference to the bombing war, we gathered that total war had now to be waged against ships and crews. That is what we understood, and I talked about it to my comrades on the way back to the Hansa.

FLOTTENRICHTER KRANZBÜHLER: Speak slowly, please.

HEISIG: We were convinced that Admiral Dönitz meant that. He did not express it clearly.

FLOTTENRICHTER KRANZBÜHLER: Did you speak about this point with any of your superiors at the school?

HEISIG: I left the school on the same day. But I can remember that one of my superiors, whose name to my regret I do not recall—nor do I recall the occasion—once spoke to us about this subject and advised us that, if possible, only officers should be on the bridge ready to annihilate shipwrecked sailors, should the possibility arise, or should it be necessary.

FLOTTENRICHTER KRANZBÜHLER: One of your superiors told you that?

HEISIG: Yes, but I cannot remember in which connection and where. I received a lot of advice from my superiors on many things.

FLOTTENRICHTER KRANZBÜHLER: Was it at the school?

HEISIG: No; I left the U-boat Training Division on the same day.

FLOTTENRICHTER KRANZBÜHLER: Were you instructed at the school in the standing orders of war?

HEISIG: Yes; we were instructed in the standing orders of war.

FLOTTENRICHTER KRANZBÜHLER: Did these standing orders mention anywhere that shipwrecked sailors were to be fired on or their rescue apparatus destroyed?

HEISIG: The standing orders did not mention that. But—I think one can assume this from an innuendo of Captain Rollmann, who was then officers' company commander—a short time before that,

some teletype message had arrived containing an order prohibiting rescue measures and demanding that sea warfare should be fought with more radical, more drastic means.

FLOTTENRICHTER KRANZBÜHLER: Do you think that the prohibition of rescue measures is identical with the shooting of shipwrecked sailors?

HEISIG: We came to this...

FLOTTENRICHTER KRANZBÜHLER: Please, answer my question. Do you think these two things are identical?

HEISIG: No.

FLOTTENRICHTER KRANZBÜHLER: Thank you.

THE PRESIDENT: Dr. Thoma, I am afraid the Tribunal will have to adjourn now; and I have an announcement to make. You may cross-examine tomorrow.

DR. THOMA: Thank you.

THE PRESIDENT: As I have already said, the Tribunal will not sit in open session this afternoon.

The announcement that I have to make is in connection with the organizations which are alleged to be criminal under Article 9 of the Charter, and this is the announcement:

The Tribunal has been giving careful consideration to the duty imposed upon it by Article 9 of the Charter.

It is difficult to determine the manner in which the representatives of the named organizations shall be permitted to appear in accordance with Article 9, without considering the exact nature of the case presented for the Prosecution.

For this reason, the Tribunal has come to the conclusion that, at this stage of the Trial, with many thousands of applications being made, the case for the Prosecution should be defined with more precision than appears in the Indictment.

In these circumstances, therefore, it is the intention of the Tribunal to invite argument from the Counsel for the Prosecution and for the Defense, at the conclusion of the case by all prosecutors, in regard to the questions hereinafter set forth.

The questions which need further consideration are as follows:

1. The Charter does not define a criminal organization, and it is therefore necessary to examine the tests of criminality which must be applied and to decide the nature of the evidence to be admitted.

Many of the applicants who have made requests to be heard assert that they were conscripted into the organization, or that they were ignorant of the criminal purposes of the organization, or that they were innocent of any unlawful acts.

It will be necessary to decide whether such evidence ought to be received to rebut the charge of the criminal character of the

organization, or whether such evidence ought more properly to be received at the subsequent trials under Article 10 of the Charter, when the organizations have been declared criminal, if the Tribunal so decides.

2. The question of the precise time within which the named organization is said to have been criminal is vital to the decision of the Tribunal.

The Tribunal desires to know from the Prosecution at this stage whether it is intended to adhere to the limits of time set out in the Indictment.

3. The Tribunal desires to know whether, in the light of the evidence, any class of persons included within the named organizations should be excluded from the scope of the declaration, and which, if any.

In the indictment of the Leadership Corps of the Nazi Party, the Prosecution have reserved the right to request that Politische Leiter of subordinate grades or ranks, or of other types or classes, be exempted from further proceedings without prejudice to other proceedings or actions against them.

Is it the intention of the Prosecution to make any such request? If so, it should be done now.

4. The Tribunal would be glad if the Prosecution would also:

(a) Summarize in respect of each named organization the elements which in their opinion justify the charge of being a criminal organization.

(b) Indicate what acts on the part of individual defendants, indicted in this Trial—in the sense used in Article 9 of the Charter—justify declaring the groups or organizations of which they are members to be criminal organizations.

(c) Submit in writing a summary of proposed findings of fact as to each organization, with respect to which a finding of criminality is asked.

The Tribunal hopes it is not necessary to say to the Prosecution that it is not seeking to interfere with the undoubted right of the Prosecution to present its case in its own way, in the light of the full knowledge of all the documents and facts which it possesses, but the duty of the Tribunal under Article 9 of the Charter makes it essential at this time to have the case clearly and precisely defined.

This announcement will be communicated to the Chief Prosecutors and to Defense Counsel in writing.

The Tribunal will adjourn until 10 o'clock tomorrow morning.

[The Tribunal adjourned until 15 January 1946 at 1000 hours.]

THIRTY-FOURTH DAY

Tuesday, 15 January 1946

Morning Session

THE PRESIDENT: Do any of the other Counsel for the Defense wish to cross-examine this witness? *[Referring to Peter Josef Heisig, interrogated the previous day.]*

[There was no response.]

Then, Colonel Phillimore, do you wish to re-examine?

COL. PHILLIMORE: No, My Lord; I have no further questions.

THE PRESIDENT: Then the witness can go.

[The witness left the stand.]

COL. PHILLIMORE: Before I call my second witness, Karl Heinz Moehle, an affidavit by him is the next document in the document book.

[Karl Heinz Moehle took the stand.]

THE PRESIDENT: What is your name?

KARL HEINZ MOEHLE (Witness): Karl Heinz Moehle.

THE PRESIDENT: Will you repeat this oath: "I swear by God—the Almighty and Omniscient—that I will speak the pure truth—and will withhold and add nothing."

[The witness repeated the oath in German.]

THE PRESIDENT: You can sit down, if you wish.

COL. PHILLIMORE: Karl Heinz Moehle, you held the rank of Korvettenkapitän in the German Navy?

MOEHLE: Yes, Sir.

COL. PHILLIMORE: You served in the German Navy since 1930?

MOEHLE: Yes, Sir.

COL. PHILLIMORE: Will you tell the Tribunal what decorations you hold?

MOEHLE: I received the Submarine War Medal; the Iron Cross, Second Class; the Iron Cross, First Class; the Knight's Cross; the War Service Cross, First and Second Class; and the German Cross in Silver.

COL. PHILLIMORE: Did you swear to an affidavit covering a statement you have made on the 21st of July 1945?

MOEHLE: Yes, Sir; I made such a statement.

COL. PHILLIMORE: I show you that document and ask you to say whether that is your affidavit.

[Document 382-PS was submitted to the witness.]

MOEHLE: Yes, this is my affidavit.

COL. PHILLIMORE: I put that document in, which is 382-PS, and it becomes Exhibit GB-202.

[Turning to the witness.] In the autumn of 1942 were you head of the 5th U-boat Flotilla?

MOEHLE: Yes.

COL. PHILLIMORE: Were you stationed at Kiel?

MOEHLE: Yes, Sir.

COL. PHILLIMORE: How long did you hold that appointment altogether?

MOEHLE: For 4 years.

COL. PHILLIMORE: Was that from June 1941 until the capitulation?

MOEHLE: That is correct.

COL. PHILLIMORE: What were your duties as commander of that flotilla?

MOEHLE: My main duties as Flotilla Commander consisted of the fitting out of U-boats which were to be sent to the front from home bases, and giving them the orders of the U-boat command.

COL. PHILLIMORE: Had you any special responsibility to U-boat commanders in respect of the orders?

MOEHLE? Yes, Sir; it was my responsibility to see that outgoing U-boats were provided with the new orders of the U-boat command.

COL. PHILLIMORE: Had you any responsibility in explaining the orders?

MOEHLE: The orders of the U-boat command were always very clear and unambiguous. If there were any ambiguities I used to have these ambiguities cleared up myself at the Staff of the Commander-in-Chief of U-boats.

COL. PHILLIMORE: Did you personally see commanders before they went out on patrol?

MOEHLE: Yes, each commander before leaving for an operational cruise went through a so-called commander's briefing.

COL. PHILLIMORE: I will go back, if I may, for two or three questions. Did you personally see commanders before they went out on patrol?

MOEHLE: Yes, each commander before sailing on a mission went through a briefing session at my office.

COL. PHILLIMORE: And what did that briefing session consist of? Were there any questions on the orders?

MOEHLE: Yes, Sir, all experiences of previous patrols and any questions of the ship's equipment were discussed with the commander at that session. Also, the commanders had an opportunity at the briefing to clarify any uncertainties, which might have existed in their minds, by asking questions.

COL. PHILLIMORE: Apart from your briefing sessions, did commanders also go to Admiral Dönitz' headquarters for briefing?

MOEHLE: As far as that was possible it was done, especially from the moment when the Commander-in-Chief of U-boats had transferred his office from Paris to Berlin.

COL. PHILLIMORE: Do you remember an order in the autumn of 1942 dealing with lifeboats?

MOEHLE: Yes. In September 1942 I received a wireless message addressed to all commanders at sea, and it dealt with that question.

COL. PHILLIMORE: I show you this document.

My Lord, that is the exhibit I have already put in as GB-199.

THE PRESIDENT: What other number has it?

COL. PHILLIMORE: It is Document D-630.

[Turning to the witness.] Is that the order you are referring to?

MOEHLE: Yes, that is the order.

COL. PHILLIMORE: From the time when you were captured until last Friday had you seen that order?

MOEHLE: No, Sir.

COL. PHILLIMORE: It follows, I think, that the account of the order in your statement was given from recollection?

MOEHLE: Yes, only from recollection.

COL. PHILLIMORE: Now, after you got that order did you go to Admiral Dönitz' headquarters?

MOEHLE: Yes, at my first visit to headquarters after receipt of the order, I personally discussed it with Lieutenant Commander Kuppisch who was a specialist on the staff of the U-boat command.

COL. PHILLIMORE: Will you tell the Tribunal what was said at that meeting?

MOEHLE: At that meeting I asked Lieutenant Commander Kuppisch how the ambiguity contained in that order—or I might

say, lack of clarity—should be understood. He explained the order by two illustrations.

The first example was that of a U-boat in the outer Bay of Biscay. It was sailing on patrol when it sighted a rubber dinghy carrying survivors of a British plane. The fact that it was on an outgoing mission, that is, being fully equipped, made it impossible to take the crew of the plane on board, although, especially at that time, it appeared especially desirable to bring back specialists in navigation from shotdown aircraft crews to get useful information from them. The commander of the U-boat made a wide circle around this rubber boat and continued on his mission. When he returned from his mission he reported this case to the staff of the Commander-in-Chief of U-boats. The staff officers reproached him, saying that, if he were unable to bring these navigation specialists back with him, the right thing to do would have been to attack that crew, for it was to be expected that, in less than 24 hours at the latest, the dinghy would be rescued by British reconnaissance forces, and they...

COL. PHILLIMORE: I don't quite get what you said would have been the correct action to take. You were saying the correct thing to do would have been...

MOEHLE: The right thing to do would have been to attack the air crew as it was not possible to bring back the crew or these specialists, for it could be expected that that crew would be found and rescued within a short time by British reconnaissance forces, and in given circumstances might again destroy one or two German U-boats.

The second example...

COL. PHILLIMORE: Did he give you any second example?

MOEHLE: Yes, the second example I am going to recount now.

Example 2. During the first month of the U-boat warfare against the United States a great quantity of tonnage—I do not recollect the exact figure—had been sunk in the shallow waters off the American coast. In these sinkings the greater part of the crews were rescued, because of the close proximity of land. That was exceedingly regrettable, as to merchant shipping not only tonnage but also crews belong, and in the meantime these crews were again able to man newly-built ships.

COL. PHILLIMORE: You have told us about the ambiguity of the order. Are you familiar with the way Admiral Dönitz worded his orders?

MOEHLE: I do not quite understand the question.

COL. PHILLIMORE: Are you familiar with the way Admiral Dönitz normally worded his orders?

MOEHLE: Yes. In my opinion, the order need only have read like this: It is pointed out anew that rescue measures have to be discontinued for reasons of safety for the submarines. This is how, I think, the order should have been worded—if only rescue measures had been forbidden. All...

COL. PHILLIMORE: Are you saying that if it had been intended only to prohibit rescue measures it would have been sufficient to refer to the previous order?

MOEHLE: Yes, Sir; that would have been enough.

COL. PHILLIMORE: Was that previous order also marked "top secret"?

MOEHLE: I do not remember that exactly.

COL. PHILLIMORE: What was the propaganda at the time with regard to crews?

MOEHLE: The propaganda at that time was to the effect that the enemy was having great difficulty in finding sufficient crews for his merchant marine and...

THE PRESIDENT: The question as to the propaganda at that time is too general a question for him to answer.

COL. PHILLIMORE: If Your Honor pleases, I don't press it.

[Turning to the witness.] From your knowledge of the way orders were worded, can you tell the Tribunal what you understood this order to mean?

MOEHLE: The order meant, in my own opinion, that although rescue measures remained prohibited, on the other hand it was desirable in the case of sinkings of merchantmen that there should be no survivors.

COL. PHILLIMORE: And was it because you understood this to be the meaning that you went to Admiral Dönitz' headquarters?

MOEHLE: I did not go to the headquarters of the U-boat command on account of this order alone; these visits took place at frequent intervals in order to discuss other questions also and to have the opportunity of keeping constantly in touch with the views and opinions of the U-boat command, as I had to transmit them to the commanders.

COL. PHILLIMORE: How did you brief commanders on this order?

MOEHLE: At these briefing sessions I read the wording of the wireless message to the commanders without making any comment. In a very few instances some commanders asked me about the meaning of the order. In such cases I gave them the two examples that headquarters had given to me. However, I added, "U-boat

command cannot give you such an order officially; everybody has to handle this according to his own conscience."

COL. PHILLIMORE: Do you remember an order about rescue ships?

MOEHLE: Yes, Sir.

COL. PHILLIMORE: Can you say what the date of that order was?

MOEHLE: I do not remember the exact date, but I think it must have been about the same as the order of September 1942.

COL. PHILLIMORE: May the witness see the Document D-663 which I put in yesterday?

THE PRESIDENT: Yes.

COL. PHILLIMORE: It is the German copy of the document that I am showing him; the original is being held.

[Document D-663 was submitted to the witness.]

MOEHLE: Yes, Sir; I recognize that order.

COL. PHILLIMORE: You will note that the date on that document is the 7th of October 1943.

MOEHLE: Yes, this order is laid down there in the general Operational Order Atlantic Number 56. According to my recollection, this order was already contained in the previous effective Operational Order Number 54, that is in a wireless message containing practical experiences and instructions. I cannot remember exactly. The date is October 1943.

THE PRESIDENT: Colonel Phillimore, is that order in the index here?

COL. PHILLIMORE: Yes, My Lord, that is the Document D-663, which I put in yesterday as Exhibit GB-200. If it is omitted from the index, Your Lordship will remember it is the document which, as I explained yesterday, we just received.

THE PRESIDENT: Where does it come in?

COL. PHILLIMORE: It comes in after D-630.

THE PRESIDENT: Oh yes. Thank you.

COL. PHILLIMORE: Your Lordship will remember the order; it deals with rescue ships attached to convoys, and it was on the last sentence that I relied.

THE PRESIDENT: Yes, I only wanted to get the words of it.

COL. PHILLIMORE: Yes, Sir. My Lord, also I have the original here now and if it is thought necessary the witness can see it, but he has seen a copy.

[Turning to the witness.] Do you remember an order about entries in logs?

MOEHLE: Yes, Sir. At the time, the exact date I do not remember, it had been ordered that sinkings and other acts which were in contradiction to international conventions should not be entered in the log but should be reported orally after return to the home port.

COL. PHILLIMORE: Would you care to say why it is that you are giving evidence in this case?

MOEHLE: Yes, Sir; because when I was taken prisoner it was claimed that I was the author of these orders, and I do not want to have this charge connected with my name.

COL. PHILLIMORE: My Lord, the witness is available for examination by my colleagues and for cross-examination.

THE PRESIDENT: Does any counsel for any defendant wish to ask the witness any questions?

FLOTTENRICHTER KRANZBÜHLER: Lieutenant Commander Moehle, since when have you been in the U-boat arm?

MOEHLE: Since the end of 1936.

FLOTTENRICHTER KRANZBÜHLER: Do you know Grossadmiral Dönitz personally?

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Since when?

MOEHLE: Since October 1937.

FLOTTENRICHTER KRANZBÜHLER: Do you see him here in this room?

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Where?

MOEHLE: To the left in the rear.

FLOTTENRICHTER KRANZBÜHLER: Do you know Grossadmiral Dönitz as an admiral to whom none of his flotilla chiefs and commanders could speak?

MOEHLE: No.

FLOTTENRICHTER KRANZBÜHLER: Or was the opposite the case?

MOEHLE: He could be approached by everybody at any time.

FLOTTENRICHTER KRANZBÜHLER: Have you yourself been a commander of a U-boat?

MOEHLE: Yes, on nine operations.

FLOTTENRICHTER KRANZBÜHLER: For how long?

MOEHLE: From the beginning of the war until April 1941.

FLOTTENRICHTER KRANZBÜHLER: How many ships did you sink?

MOEHLE: Twenty ships.

FLOTTENRICHTER KRANZBÜHLER: After sinking ships, did you destroy the rescue equipment or fire at the survivors?

MOEHLE: No.

FLOTTENRICHTER KRANZBÜHLER: Did you have an order to do that?

MOEHLE: No.

FLOTTENRICHTER KRANZBÜHLER: Had the danger passed for a U-boat after the attack on a merchantman?

MOEHLE: No; the danger to the U-boat does not end when the attack is over.

FLOTTENRICHTER KRANZBÜHLER: Why not?

MOEHLE: Because in most instances when a ship is sunk, the ship is in a position to send SOS messages and give its position, and thus bring striking forces to attack the U-boat at the last minute.

FLOTTENRICHTER KRANZBÜHLER: Is there a maxim in the U-boat arm that fighting comes before rescuing?

MOEHLE: I never heard of that rule put in that way.

FLOTTENRICHTER KRANZBÜHLER: Prior to the order of September 1942 did you know of any other orders by which rescue work was prohibited if it entailed danger to the U-boat?

MOEHLE: Yes, but I do not know when and where this order was laid down. It had been ordered that, as a matter of principle, the safety of one's own boat takes precedence.

FLOTTENRICHTER KRANZBÜHLER: Was this ordered only once, or in several instances?

MOEHLE: That I cannot say.

FLOTTENRICHTER KRANZBÜHLER: Do you know that the order of September 1942 was given in consequence of an incident in which German U-boats, contrary to orders, had undertaken rescue measures?

MOEHLE: Yes, Sir.

FLOTTENRICHTER KRANZBÜHLER: And the U-boats were then attacked by Allied aircraft?

MOEHLE: Yes, Sir.

FLOTTENRICHTER KRANZBÜHLER: A minute ago you classified the order of September 1942 as ambiguous, did you not?

MOEHLE: Yes, Sir.

FLOTTENRICHTER KRANZBÜHLER: You interpreted it to the commanders in the sense that the order should include the destruction of rescue facilities and of the shipwrecked crew?

MOEHLE: No, not quite; I gave the two examples to the commanders only if they made an inquiry and I passed them on in the same way as I had received them from the Commander-in-Chief Submarine Fleet and they themselves could draw that conclusion from these two examples.

FLOTTENRICHTER KRANZBÜHLER: In which sentence of the order do you see a hidden invitation to kill survivors or to destroy the rescue facilities?

MOEHLE: In the sentence...

FLOTTENRICHTER KRANZBÜHLER: Just a second, I shall read to you each sentence of the order separately.

MOEHLE: Very well.

FLOTTENRICHTER KRANZBÜHLER: I read from the Document D-630:

> "1. No attempt of any kind must be made at rescuing members of ships sunk, and this includes picking up persons in the water and putting them in lifeboats, righting capsized lifeboats, and handing over food and water. These are absolutely forbidden."

Do you see it in this sentence?

MOEHLE: No.

> FLOTTENRICHTER KRANZBÜHLER: "Rescue measures contradict the most primitive demands of warfare that crews and ships should be destroyed."

Do you see that in this sentence?

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Does that sentence contain anything as to the destruction of shipwrecked persons?

MOEHLE: No, of crews.

FLOTTENRICHTER KRANZBÜHLER: At the end of the order is the phrase "Be harsh." Did you hear that phrase there for the first time?

MOEHLE: No.

FLOTTENRICHTER KRANZBÜHLER: Was this phrase used by Commander-in-Chief of U-boats to get the commanders to be severe themselves and to their crews?

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Did you discuss the order with Lieutenant Commander Kuppisch?

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Do you remember that exactly?

MOEHLE: As far as I can rely upon my recollection after such a long time.

FLOTTENRICHTER KRANZBÜHLER: Where did that conversation take place?

MOEHLE: At the staff headquarters of the U-boat command, probably in Paris.

FLOTTENRICHTER KRANZBÜHLER: What position did Lieutenant Commander Kuppisch occupy at the time?

MOEHLE: As far as I can remember, he was the man in charge of the Enemy Convoys Department, but I could not say that with any certainty.

FLOTTENRICHTER KRANZBÜHLER: Was the superior officer of Lieutenant Commander Kuppisch, Commander Hessler?

MOEHLE: Superior officer? I would not say so, because Commander Hessler was on the same level as Kuppisch, a departmental chief.

FLOTTENRICHTER KRANZBÜHLER: Was Lieutenant Commander Kuppisch's superior Admiral Goth?

MOEHLE: Yes, in his capacity of Chief of Staff.

FLOTTENRICHTER KRANZBÜHLER: Did you speak to Commander Hessler or Admiral Goth or with the Grossadmiral himself with regard to the interpretation to be given to the order of September?

MOEHLE: Whether I spoke to Commander Hessler, I do not remember, but in any case not to Admiral Goth or the Grossadmiral himself.

FLOTTENRICHTER KRANZBÜHLER: You said Lieutenant Commander Kuppisch had told you about the opinion which was prevalent in the staff of the U-boat command.

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: With regard to the attitude towards the aviators in the Bay of Biscay, did he tell you that it was the opinion of the Grossadmiral himself?

MOEHLE: I do not remember that. It is too far back. When explanations were given at staff meetings of the U-boat command and an opinion was expressed by a responsible departmental chief, we flotilla leaders naturally took this to be the official opinion of the Commander-in-Chief of the U-boat arm. Admiral Goth personally or the Commander-in-Chief of the U-boat arm was only approached in cases where the departmental chiefs refused to commit themselves definitely or to assume the responsibility for an answer.

FLOTTENRICHTER KRANZBÜHLER: Did you not get to know that the story of the airmen who had been shot down in the Bay of Biscay was in actual fact just the opposite...

MOEHLE: I do not understand.

FLOTTENRICHTER KRANZBÜHLER: I continue: That the commander was reprimanded because he did not bring home these flyers even if it meant breaking off his operation.

MOEHLE: No, I do not know that.

FLOTTENRICHTER KRANZBÜHLER: Did Lieutenant Commander Kuppisch tell you in connection with that second example you mentioned, that the shipwrecked or their rescue equipment off the American coast should have been destroyed?

MOEHLE: No; he only said it was regrettable that the crews had been rescued.

FLOTTENRICHTER KRANZBÜHLER: And you concluded from that that it was desired to have the shipwrecked killed?

MOEHLE: I did not draw any conclusions at all from that for I passed on these examples without any commentary.

FLOTTENRICHTER KRANZBÜHLER: Do you know the standing orders of the U-boat command?

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Do they contain the guiding principles of U-boat warfare?

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Is there any order in the standing orders directing or advising the killing of shipwrecked persons or the destruction of rescue facilities?

MOEHLE: As far as I know, no.

FLOTTENRICHTER KRANZBÜHLER: What grade of secrecy was attached to these standing orders?

MOEHLE: As far as I remember, top secret.

FLOTTENRICHTER KRANZBÜHLER: Do you remember that in Standing Order 511 the following was ordered . . .

Mr. President, I read from an order which I shall submit in evidence later on. I cannot do it now because I have not yet the original.

"Standing Order of the U-boat Command Number 511; 20 May 1943; taking on board of officers of sunken ships.

"1. As far as accommodation facilities on board permit, captains and chief engineers of sunken ships are to be brought in. The enemy tries to thwart this intention and has issued the following order: (a) masters are not allowed to identify themselves when questioned, but should if possible use sailors selected especially for this purpose; (b) crew has to state that masters and chief engineers remained on board.

"If in spite of energetic questioning it is not possible to find the masters or the chief engineers, then other ships' officers should be taken aboard.

"2. Masters and officers of neutral ships, which, according to Standing Order Number 101, can be sunk (for instance, Swedish ships outside Göteborg traffic), are not to be brought in because internment of these officers would violate international law.

"3. In case ship officers cannot be taken prisoner, other white members of the crew should be taken along as far as accommodation facilities and further operations of the craft permit, for the purpose of interrogation for military and propaganda purposes.

"4. In case of the sinking of a single cruising destroyer, corvette, or escort vessel, try at all costs to take prisoners, if that can be done without endangering the boat. Interrogation of the prisoners at transit camps . . . can produce valuable hints as to antisubmarine tactics, devices, and weapons used by the enemy; the same applies to air crews of shot-down planes."

[Turning to the witness.] Do you know that order?

MOEHLE: Yes. The order seems familiar to me.

FLOTTENRICHTER KRANZBÜHLER: Do you know the order 513?

"Standing Order of U-boat Command; 1 June 1944; taking along of prisoners.

"1. Statements of prisoners are the safest and best source of information regarding enemy tactics, weapons, location

appliances and methods. Prisoners from planes and destroyers may be of the greatest importance to us; therefore, as far as possible and without endangering the boat, the utmost is to be done to take such prisoners.

"2. As prisoners are extremely willing to talk when captured, interrogate them at once on board. It is of special interest to know the manner of locating U-boats by aircraft, whether by radar or by passive location methods; for instance, by ascertaining, through electricity or heat, the location of the boat. Report prisoners taken as soon as possible in order to hand them over to returning boats."

Do you know that order?

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Did you not notice and try to clarify a contradiction between these orders concerning the rescue of air crews in every case and the story you passed on about the destruction of air crews?

MOEHLE: No; because in the order of September 1942 it also says that the order about the bringing in of ships' captains and chief engineers remains in force.

FLOTTENRICHTER KRANZBÜHLER: Did you hear of any instance where a U-boat brought in captains and chief engineers but shot the rest of the crew?

MOEHLE: No.

FLOTTENRICHTER KRANZBÜHLER: Do you consider it at all possible that such an order can be given—that is, that part of the crew should be rescued and the rest of the crew should be killed?

MOEHLE: No, Sir. One cannot make such an order.

FLOTTENRICHTER KRANZBÜHLER: Did you ever hear of any case where a U-boat commander, on the basis of your briefings, destroyed rescue equipment or killed shipwrecked persons?

MOEHLE: No.

FLOTTENRICHTER KRANZBÜHLER: Was it permitted to attack neutral vessels outside the fixed blockade zones?

MOEHLE: Only in cases where they were not marked as neutrals according to regulations.

FLOTTENRICHTER KRANZBÜHLER: Was the Commander of the U-boat fleet particularly severe in enforcing this order for the protection of neutral ships?

MOEHLE: As I know of no such cases, I cannot say anything on that subject.

FLOTTENRICHTER KRANZBÜHLER: Do you know that the commanders were threatened with court-martial if they did not obey the orders given for the protection of neutrals?

MOEHLE: Yes; I remember one case which happened in the Caribbean Sea.

FLOTTENRICHTER KRANZBÜHLER: Do you remember an order of 1944 directing that neutral ships be stopped and searched?

MOEHLE: Yes, it was ordered, but I do not remember the date, that particular Spanish and Portuguese ships in the North Atlantic should be stopped and searched.

FLOTTENRICHTER KRANZBÜHLER: Did you pass on that order to the commanders?

MOEHLE: As far as I recollect, this order was given in writing and was contained in one of the official sets of orders. I passed on orders to commanders only when they were not contained in a set of orders.

FLOTTENRICHTER KRANZBÜHLER: In passing that order on, did you make an addition as to whether that order should be executed or not?

MOEHLE: Yes, I remember that I said—when that order came by radio and the commanders did not know of it yet—that they should be exceedingly careful, when stopping neutrals, as there was always the danger that also a neutral ship might disclose the position of the U-boat by radio. Owing to the air superiority of the enemy in the North Atlantic, it would always be safer or better not to be compelled to stop these ships.

FLOTTENRICHTER KRANZBÜHLER: Had you orders from the Commander of the U-boat fleet to make this additional remark?

MOEHLE: As far as I remember, one of the departmental chiefs in the U-boat command—I assume it was Commander Hessler—told me or took particular care to point out that any stopping of ships, even neutrals, involved considerable danger to the U-boat.

FLOTTENRICHTER KRANZBÜHLER: Because of the air patrol?

MOEHLE: Because of the air patrol.

FLOTTENRICHTER KRANZBÜHLER: Your attention has been called to the order concerning the so-called rescue ships.

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Do you remember that?

MOEHLE: Yes.

FLOTTENRICHTER KRANZBÜHLER: Were these "rescue ships" recognized under international law as hospital ships, with appropriate markings?

MOEHLE: As far as I know, they were not.

FLOTTENRICHTER KRANZBÜHLER: What orders existed that hospital ships should be protected?

MOEHLE: Where these orders were laid down—whether in writing I do not remember—I only know that the Commander of the U-boats fleet frequently reminded the commanders of the absolute inviolability of hospital ships.

FLOTTENRICHTER KRANZBÜHLER: Do you know of any case in which a hospital ship was attacked by a U-boat?

MOEHLE: No; I don't know of such a case.

FLOTTENRICHTER KRANZBÜHLER: If the Commander of the U-boat fleet had been interested in destroying helpless human beings in violation of international law, the destruction of hospital ships would have been an excellent means, don't you think?

MOEHLE: Without any doubt.

FLOTTENRICHTER KRANZBÜHLER: I have no further questions.

THE PRESIDENT: Does any other Defense Counsel wish to cross-examine this witness?

[No response.]

THE TRIBUNAL (Mr. Biddle): Did you ever save any of the survivors of the vessels that you torpedoed?

MOEHLE: I have not been in a position to do that due to the military situation.

THE TRIBUNAL (Mr. Biddle): You mean to say it was dangerous to your boat to do it?

MOEHLE: Not only that. A great number of the ships which I sunk were in a convoy or else there was a rough sea, so that it was impossible to undertake any rescue measures owing to navigation conditions.

THE TRIBUNAL (Mr. Biddle): That is all.

THE PRESIDENT: Colonel Phillimore, do you want to reexamine?

COL. PHILLIMORE: My Lord, I have about three questions.

THE PRESIDENT: Very well.

COL. PHILLIMORE: *[Turning to the witness.]* When you were a U-boat commander yourself, what was the order with regard to rescue?

MOEHLE: At the beginning of the war we had been told that the safety of one's own boat was the decisive thing, and that the boat should not be endangered by rescue measures. Whether these orders already existed in writing at the outbreak of the war I do not remember.

COL. PHILLIMORE: When you got this order of the 17th of September 1942, did you take it merely as prohibiting rescue or as going further?

MOEHLE: When I received that order I noticed that it was not entirely clear, as orders of the B. d. U. normally were. One could see an ambiguity in it.

COL. PHILLIMORE: You have not answered my question. Did you take the order to mean that a U-boat commander should merely abstain from rescue measures, or as something further?

MOEHLE: I took the order to mean that something further was implied, only it was not actually ordered but was considered desirable.

COL. PHILLIMORE: The instance you were given about the Bay of Biscay, had you any knowledge of the facts of that incident?

MOEHLE: No, the circumstances of that case are not known to me.

COL. PHILLIMORE: What were the actual words you used when you passed that order on to commanders?

MOEHLE: I told the commanders in so many words: We are now approaching a very delicate and difficult chapter; it is the question of the treatment of lifeboats. The Commander of the U-boat fleet issued the following radio message in September 1942—I then read the radio message of September 1942 in full. For most of those present the chapter was closed; no commander had any questions to ask. Explanations were not given unless questions were asked. In some few instances the commanders asked, "How should this order be interpreted?" Then as a means of interpretation I gave the two examples which had been related to me at the U-boat command and added, "Officially such a thing cannot be ordered; everybody has to reconcile that with his own conscience."

COL. PHILLIMORE: Do you remember any comment being made by commanding officers after you had read the order?

MOEHLE: Yes, Sir. Several commanders, following the reading of this radio message said, without making any further comment, "That is very clear, but damned hard."

COL. PHILLIMORE: My Lord, I have no further questions.

THE PRESIDENT: The Tribunal will adjourn for 10 minutes.

[A recess was taken.]

COL. PHILLIMORE: My Lord, I would now put before the Tribunal two cases where that order of the 17th of September 1942 was apparently put into effect. The first case is set out at the next document in the document book, which is D-645. My Lord, I put that document in and it becomes Exhibit GB-203. It is a report of the sinking of a steam trawler, a fishing trawler, the *Noreen Mary,* which was sunk by *U-247* on the 5th of July 1944. The first page of the document contains an extract from the log of the U-boat. The time reference 1943 on the document is followed by an account of the firing of two torpedoes which missed, and then, at 2055 hours, the log reads:

"Surfaced. Fishing Vessels . . . ."—bearings given of three ships—"Engaged the nearest. She stops after 3 minutes."

Then there is an account of a shot fired as the trawler lay stopped, and then, the final entry:

"Sunk by flak, with shots into her side. Sank by the stern."

The Tribunal will notice there is no mention in the log of any action against the torpedoed or the shipwrecked seamen.

THE PRESIDENT: Why is it entered as 5. 7. 1943?

COL. PHILLIMORE: It is a typing error. I should have pointed it out.

My Lord, the next page of the document is a comment on the action by the U-boat command, and the last line reads:

"Recognized success: Fishing vessel *Noreen Mary* sunk by flak."

And then there is an affidavit by James MacAlister, who was a deckhand on board the *Noreen Mary* at the time of the sinking. My Lord, reading the last paragraph on the first page of the affidavit. He has dealt earlier with having seen the torpedo tracks which missed the trawler. The last paragraph reads:

"At 2110 hours, while we were still trawling, the submarine surfaced on our starboard beam, about 50 yards to the northeast of us, and without any warning immediately opened fire on the ship with a machine gun. We were 18 miles west from Cape Wrath, on a northwesterly course, making 3 knots. The weather was fine and clear, sunny, with good visibility. The sea was smooth, with light airs."

My Lord, then there is an account of the firing in the next paragraph, and then, if I might read from the second paragraph on Page 2.

THE PRESIDENT: Why not read the first?

COL. PHILLIMORE: If Your Lordship pleases:

"When the submarine surfaced I saw men climbing out of the conning tower. The skipper thought at first the submarine

was British, but when she opened fire he immediately slackened the brake to take the weight off gear"—that is, the trawl—"and increased to full speed, which was about 10 knots. The submarine chased us, firing her machine gun, and with the first rounds killed two or three men, including the skipper, who were on deck and had not had time to take cover. The submarine then started using a heavier gun from her conning tower, the first shot from which burst the boiler, enveloping everything in steam and stopping the ship.

"By now the crew had taken cover, but in spite of this all but four were killed. The submarine then commenced to circle round ahead of the vessel, and passed down her port side with both guns firing continuously. We were listing slowly to port all the time but did not catch fire.

"The mate and I attempted to release the lifeboat, which was aft, but the mate was killed whilst doing so, so I abandoned the attempt. I then went below into the pantry, which was below the waterline, for shelter. The ship was listing more and more port, until finally at 2210 she rolled right over and sank, and the only four men left alive on board were thrown into the sea. I do not know where the other three men had taken cover during this time, as I did not hear or see them until they were in the water.

"I swam around until I came across the broken bow of our lifeboat, which was upside down, and managed to scramble on top of it. Even now the submarine did not submerge, but deliberately steamed in my direction and when only 60 to 70 yards away fired directly at me with a short burst from the machine gun. As their intention was quite obvious, I fell into the water and remained there until the submarine ceased firing and submerged, after which I climbed back on to the bottom of the boat. The submarine had been firing her guns for a full hour."

My Lord, then the affidavit goes on to describe the deponent and others attempting to rescue themselves and to help each other, and then they were picked up by another trawler.

The last paragraph on that page:

"Whilst on board the *Lady Madeleine* the second engineer and I had our wounds dressed. I learned later that the second engineer had 48 shrapnel wounds, also a piece of steel wire 2½ inches long embedded in his body."

And there is a sentence on which I don't rely, and the last sentence:

"I had 14 shrapnel wounds."

My Lord, and then the last two paragraphs of the affidavit:

"This is my fourth wartime experience, having served in the whalers *Sylvester* (mined) and *New Seville* (torpedoed), and the trawler *Ocean Tide,* which ran ashore.

"As a result of this attack by U-boat, the casualties were six killed . . . two missing . . . two injured . . . ."

My Lord, the next document, D-647, I put in as Exhibit GB-204. My Lord, this is an extract from a statement given by the second officer of the ship *Antonico,* torpedoed, set afire, and sunk, on the 28th of September 1942, on the coast of French Guiana. The Tribunal will observe that the date of the incident is some 11 days after the issue of the order. My Lord, I would read from the words "that the witness saw the dead," slightly more than halfway down on the first page. An account has been given of the attack on the ship, which by then was on fire:

". . . that the witness saw the dead on the deck of the *Antonico* as he and his crew tried to swing out their lifeboat; that the attack was fulminant, lasting almost 20 minutes; and that the witness already in the lifeboat tried to get away from the side of the *Antonico* in order to avoid being dragged down by the same *Antonico* and also because she was the aggressor's target; that the night was dark, and it was thus difficult to see the submarine, but that the fire aboard the *Antonico* lit up the locality in which she was submerging, facilitating the enemy to see the two lifeboats trying to get away; that the enemy ruthlessly machine-gunned the defenseless sailors in Number 2 lifeboat, in which the witness found himself, and killed the Second Pilot Arnaldo de Andrade de Lima, and wounded three of the crew; that the witness gave orders to his company to throw themselves overboard to save themselves from the bullets: in so doing, they were protected and out of sight behind the lifeboat, which was already filled with water; even so the lifeboat continued to be attacked. At that time the witness and his companions were about 20 meters in distance from the submarine . . . ."

My Lord, I haven't got the U-boat's log in that case, but you may think that, in view of the order with regard to entries in logs, namely that anything compromising should not be put in, it would be no more helpful than in the case of the previous incident.

My Lord, the next Document, D-646(a), I put in as Exhibit GB-205. It is a monitored account of a talk by a German naval war reporter on the long wave propaganda service from Friesland. The broadcast was in English, and the date is the 11th of March 1943. It is, if I may quote:

"Santa Lucia, in the West Indies, was an ideal setting for romance, but nowadays it was dangerous to sail in these waters—dangerous for the British and Americans and for all the colored people who were at their beck and call. Recently a U-boat operating in these waters sighted an enemy windjammer. Streams of tracer bullets were poured into the sails and most of the Negro crew leaped overboard. Knowing that this might be a decoy ship, the submarine steamed close, within 20 yards, when hand grenades were hurled into the rigging. The remainder of the Negroes then leaped into the sea. The windjammer sank. There remained only wreckage, lifeboats packed with men, and sailors swimming. The sharks in the distance licked their teeth in expectation. Such was the fate of those who sailed for Britain and America."

My Lord, the next page of the document I don't propose to read. It is an extract from the log of the U-boat believed to have sunk this ship. It was, in fact, the *C. S. Flight.*

My Lord, I read that because, in my submission, it shows that it was the policy of the enemy at the start to seek to terrorize crews, and it is a part with the order with regard to rescue ships and with the order on the destruction of seamen.

If I might say so, in view of the cross-examination, the Prosecution do not complain of rescue ships being attacked. They are not entitled to protection. The point of the order was that they were to be given priority in attack, and the order, therefore, is closely allied with the order of the 17th of September 1942. In view of the Allied building program, it had become imperative to prevent the ships being manned.

My Lord, I pass to the period after the defendant had succeeded the Defendant Raeder. My Lord, the next document is 2098-PS. It has been referred to but not, I think, put in. I put it in formally as Exhibit GB-206. My Lord, I won't read it. It merely sets out that the Defendant Raeder should have the equivalent rank of a minister of the Reich, and I ask the Tribunal to infer that on succeeding Raeder the Defendant Dönitz would presumably have succeeded to that right.

THE PRESIDENT: This is from 1938 onward?

COL. PHILLIMORE: From 1938 onward.

The next document, D-648, I put in as Exhibit GB-207. It is an affidavit by an official, or rather it is an official report certified by an official of the British Admiralty. The certificate is on the last page, and it sets out the number of meetings, the dates of the meetings and those present, on the occasion of meetings between

the Defendant Dönitz or his representative with Hitler from the time that he succeeded Raeder until the end. The certificate states:

> "... I have compiled from them"—that is, from captured documents—"the attached list of occasions on which Admiral Dönitz attended conferences at Hitler's headquarters. The list of other senior officials who attended the same conferences is added when this information was contained in the captured documents concerned. I certify that the list is a true extract from the collective documents which I have examined, and which are in the possession of the British Admiralty, London."

My Lord, I won't go through the list. I would merely call the Tribunal's attention to the fact that either Admiral Dönitz or his deputy, Konteradmiral Voss, was present at each of these meetings; and that amongst those who were also constantly there were the Defendants Speer, Keitel, Jodl, Ribbentrop, and Göring, and also Himmler or his lieutenants, Fegelein or Kaltenbrunner.

My Lord, the inference which I ask the Tribunal to draw from the document is that from the time that he succeeded Raeder, this defendant was one of the rulers of the Reich and was undoubtedly aware of all decisions, major decisions of policy.

My Lord, I pass to the next document, C-178. That has already been put in as Exhibit Number USA-544. It is an internal memorandum of the naval war staff, written by the division dealing with international law to another division, and the subject is the order with regard to the shooting of Commandos, of the 18th of October 1942, with which the Tribunal are, I think, familiar.

The point of the document is that some doubt appeared to have arisen in some quarters with regard to the understanding of the order, and in the last sentence of the memorandum it is suggested:

> "As far as the Navy is concerned, it remains to be seen whether or not this case should be used to make sure, after a conference with the Commander-in-Chief of the Navy, that all departments concerned have an entirely clear conception regarding the treatment of members of Commando units."

My Lord, whether that conference took place or not I do not know. The document is dated some 11 days after this defendant had taken over from the Defendant Raeder.

But the next document in the book, D-649, which I put in as Exhibit GB-208, is an instance of the Navy in July of that year—July 1943—handing over to the SD for shooting Norwegian and British naval personnel whom the Navy decided came under the terms of the order. My Lord, it is an affidavit by a British barrister-at-law who served as judge advocate at the trial of the members of the SD who executed the order.

Paragraph 1 sets out that the deponent was judge advocate at the trial of 10 members of the SD by a military court held at the law courts, Oslo, Norway, which sat on Thursday, 29 November 1945, and concluded its sitting on Tuesday, 4 December 1945.

My Lord, the next paragraph sets out who convened the court and the names of the prosecuting and defending counsel, and the third paragraph states:

> "The accused were charged with committing a war crime, in that they at Ulven, Norway, in or about the month of July 1943, in violation of the laws and usages of war, were concerned in the killing of..."

Then there follow the names of six personnel of the Norwegian Navy, including one officer, and one leading telegraphist of the Royal Navy, prisoners of war. I might read from Paragraph 4:

> "There was evidence before the court which was not challenged by the Defense that Motor Torpedo Boat Number 345 set out from Lerwick in the Shetlands on a naval operation for the purpose of making torpedo attacks on German shipping off the Norwegian coast, and for the purpose of laying mines in the same area. The persons mentioned in the charge were all the crew of the torpedo boat."

Paragraph 5:

> "The Defense did not challenge that each member of the crew was wearing uniform at the time of capture, and there was abundant evidence from many persons, several of whom were German, that they were wearing uniform at all times after their capture."

Paragraph 6:

> "On 27th July 1943, the torpedo boat reached the island of Aspo off the Norwegian coast, north of Bergen. On the following day the whole of the crew were captured and were taken on board a German naval vessel which was under the command of Admiral Von Schrader, the admiral of the west coast. The crew were taken to the Bergenhus where they had arrived by 11 p.m. on 28th July. The crew were there interrogated by Lieutenant H. P. K. W. Fanger, a naval lieutenant of the Reserve, on the orders of Korvettenkapitän Egon Drascher, both of the German Naval Intelligence Service. This interrogation was carried out upon the orders of the staff of the admiral of the west coast. Lieutenant Fanger reported to the officer in charge of the intelligence branch at Bergen that in his opinion all the members of the crew were entitled to be treated as prisoners of war, and that officer in turn

reported both orally and in writing to the Sea Commander Bergen, and in writing to the admiral of the west coast.

"7. The interrogation by the naval intelligence branch was concluded in the early hours of 29th July, and almost immediately all the members of the crew were handed over on the immediate orders of the Sea Commander Bergen, to Obersturmbannführer of the SD Hans Wilhelm Blomberg, who was at that time Kommandeur of the Sicherheitspolizei at Bergen. This followed a meeting between Blomberg and Admiral Von Schrader, at which a copy of the Führer Order of 18 October 1942 was shown to Blomberg. This order dealt with the classes of persons who were to be excluded from the protection of the Geneva Convention and were not to be treated as prisoners of war, but when captured were to be handed over to the SD. Admiral Von Schrader told Blomberg that the crew of this torpedo boat were to be handed over, in accordance with the Führer Order, to the SD.

"9. The SD then conducted their own interrogation. . . ."

THE PRESIDENT: You can summarize the rest, can't you?

COL. PHILLIMORE: If Your Lordship pleases.

My Lord, Paragraph 9 described the interrogation by officials of the SD, and that these officials took the same views as the naval intelligence officers, that the crew were entitled to be treated as prisoners of war; that despite this they were taken out and shot by an execution squad composed of members of the SD. Then there is a description of the disposal of the bodies.

My Lord, the last paragraph is perhaps important in connection with the case against the Defendant Keitel.

THE PRESIDENT: Yes, read it.

COL. PHILLIMORE: "11. It appeared from the evidence that in March or April, 1945, an order from the Führer headquarters, signed by Keitel, was transmitted to the German authorities in Norway. The substance of the order was that members of the crew of Commando raids who fell into German captivity were from that date to be treated as ordinary prisoners of war. This order referred specifically to the Führer Order referred to above."

The member of the Tribunal will of course have noted the date; it was time to put their affairs in order.

My Lord, the next document, C-158, I put in as Exhibit GB-209. It consists of two extracts from minutes of conferences on the 19th and 20th of February 1945, conferences between the Defendant

Dönitz and Hitler. If I might read the first and last sentence from the first paragraph of the first extract:

> "The Führer is considering whether or not Germany should renounce the Geneva Convention."

That is of course the 1929 prisoners-of-war convention. And the last sentence:

> "The Führer orders the Commander-in-Chief of the Navy to consider the pros and cons of this step and to state his opinion as soon as possible."

Then the second extract—the Defendant Dönitz states his opinion in the presence of the Defendant Jodl and the representative of the Defendant Ribbentrop. It is the last two sentences on which I rely:

> "... On the contrary, the disadvantages"—that is, the disadvantages of renouncing the convention—"outweigh the advantages. Even from a general standpoint it appears to the Commander-in-Chief that this measure would bring no advantage. It would be better to carry out the measures considered necessary without warning, and at all costs to save face with the outer world."

My Lord, it is no small matter, that document, when one reflects that it was to that convention that we owe the fact that upwards of 165,000 British and 65,000 to 70,000 American prisoners of war were duly recovered at the end of the war. And to advocate breaching that convention, preferably without saying so, is not a matter to be treated lightly.

My Lord, the next document, C-171, I put in as Exhibit GB-210. It is another extract from the minutes of a meeting between the Defendant Dönitz and Hitler, on the 1st of July 1944. The extract is signed by the defendant:

> "Regarding the general strike in Copenhagen, the Führer says that the only weapon to deal with terror is terror. Court-martial proceedings create martyrs. History shows that the names of such men are on everybody's lips, whereas there is silence with regard to the many thousands who have lost their lives in similar circumstances without court-martial proceedings."

My Lord, the next document, C-195, I put in as Exhibit GB-211. It is a memorandum signed by the defendant, dated late in 1944. There is no specific date on the document, but it is late in 1944—in December, I think, of 1944. The distribution on the third page includes Hitler, Keitel, Jodl, Speer, and the Supreme Command of the Air Force.

My Lord, if I might read the second paragraph. He is dealing with the review of German shipping losses:

> "Furthermore, I propose reinforcing the shipyard working parties by prisoners from the concentration camps, and as a special measure for relieving the present shortage of coppersmiths, especially in U-boat construction, I propose to divert coppersmiths from the reduced construction of locomotives to shipbuilding."

Then he goes on to deal with sabotage, and the last two paragraphs on that page are:

> "Since, elsewhere, measures for exacting atonement taken against whole working parties amongst whom sabotage occurred, have proved successful, and, for example, the shipyard sabotage in France was completely suppressed, possibly similar measures for the Scandinavian countries will come under consideration."

THE PRESIDENT: Do you need to read any more than that?

COL. PHILLIMORE: My Lord, no. The last sentence of the document in the next page is Item 2 of the summing-up:

> "12,000 concentration camp prisoners will be employed in the shipyards as additional labor (Security Service agrees to this)"
> —that is the SD.

My Lord, this man was one of the rulers of Germany, and in my submission, that document alone is sufficient to condemn him. It was not for nothing that at these meetings Himmler and his lieutenants, Fegelein and Kaltenbrunner, were present.

My Lord, they were not there to discuss U-boats or the use of battleships. It is clear, in my submission, from this document that this defendant knew all about concentration camps and concentration camp labor, and as one of the rulers of Germany he must bear his full share of that responsibility.

My Lord, I pass to the last document, D-650, which I put in as Exhibit GB-212.

My Lord, this contains the orders issued by the defendant in April. The document, in my submission, shows the defendant's fanatical adherence to the Nazi creed, and his preparedness even at that stage to continue a hopeless war at the expense of human life and with the certainty of increased destruction and misery to the men, women, and children of his country. I read the last paragraph on the second page:

> "I therefore demand of the commanding officers of the Navy: ... that they clearly and unambiguously follow the path of military duty, whatever may happen. I demand of

them that they stamp out ruthlessly all signs and tendencies among the men which endanger the following of this path."

Then he refers to an order.

"I demand from senior commanders that they should take just as ruthless action against any commander who does not do his military duty. If a commander does not think he has the moral strength to occupy his position as a leader in this sense, he must report this immediately. He will then be used as a soldier in this fateful struggle in some position in which he is not burdened with any task as a leader."

And then the last paragraph on that page, from a further order of 19th of April, he gives an example of the type of under-officer who should be promoted.

"An example: In a prison camp of the auxiliary cruiser *Cormoran,* in Australia, a petty officer acting as camp senior officer, had all communists who made themselves noticeable among the inmates of the camp systematically done away with in such a way that the guards did not notice this. This petty officer is sure of my full recognition for his decision and his execution. After his return, I shall promote him with all means, as he has shown that he is fitted to be a leader."

My Lord, of course the point is not whether the facts were true or not, but the type of order that he was issuing. My Lord, if I might just sum up, the defendant was no plain sailor, playing the part of a service officer, loyally obedient to the orders of the government of the day; he was an extreme Nazi who did his utmost to indoctrinate the Navy and the German people with the Nazi creed. It is no coincidence that it was he who was chosen to succeed Hitler; not Göring, not Ribbentrop, not Goebbels, not Himmler. He played a big part in fashioning the U-boat fleet, one of the most deadly weapons of aggressive war. He helped to plan and execute aggressive war, and we cannot doubt that he knew well that these wars were in deliberate violation of treaties. He was ready to stoop to any ruse where he thought he would not be found out: Breaches of the Geneva Convention or of neutrality, where he might hope to maintain that sinking was due to a mine. He was ready to order, and did order, the murder of helpless survivors of sunken ships, an action only paralleled by that of his Japanese ally.

My Lord, there can be few countries where widows or parents do not mourn for men of the merchant navies whose destruction was due to the callous brutality with which, at the orders of this man, the German U-boats did their work.

My Lord, my learned friend, Major Elwyn Jones, now deals with the Defendant Raeder.

MAJOR F. ELWYN JONES (Junior Counsel for the United Kingdom): May it please the Tribunal, it is my duty to present to the Tribunal the evidence against the creator of the Nazi Navy, the Defendant Raeder. The allegations against him are set out in Appendix A of the Indictment at Pages 33 and 34 (Volume I, Page 78), and the Tribunal will see that the Defendant Raeder is charged with promoting and participating in the planning of the Nazi wars of aggression; with executing those plans; and with authorizing, directing, and participating in Nazi War Crimes, particularly war crimes arising out of sea warfare.

At the outset the Tribunal may find it convenient to look at Document 2888-PS, which is already before the Tribunal as Exhibit Number USA-13, which the Tribunal will find at Page 96 of the document book. That is a document which sets out the offices and positions held by the Defendant Raeder. The Tribunal will see that he was born in 1876 and joined the German Navy in 1894. By 1918 he had become commander of the cruiser *Köln*. In 1928 he became an admiral, chief of naval command, and head of the German Navy. In 1935 he became Commander-in-Chief of the Navy. In 1936, on Hitler's 47th birthday, he became general admiral, a creation of Hitler's. In 1937 he received the high Nazi honor of the Golden Badge of Honor of the Nazi Party. In 1938 he became a member of the Secret Cabinet Council. And in 1939 he reached the empyrean of Grossadmiral, a rank created by Hitler, who presented Raeder with a marshal's baton. In 1943 he became Admiral Inspector of the German Navy, which, as the Tribunal will shortly see, was a kind of retirement into oblivion, because from January 1943 on, as the Tribunal has heard, Dönitz was the effective commander of the German Navy.

In these eventful years of Raeder's command of the German Navy from 1928 to 1943 he played a vital role. I would like in the first instance to draw the Tribunal's attention to Raeder's part in building up the German Navy as an instrument of war to implement the Nazis' general plan of aggression.

The Tribunal is by now familiar with the steps by which the small navy permitted to Germany under the Treaty of Versailles was enormously expanded under the guidance of Raeder. I will do no more than to remind the Tribunal of some of the milestones upon Raeder's road to Nazi mastery of the seas, which mercifully he was unable to attain.

With regard to the story of Germany's secret rearmament in violation of the Treaty of Versailles, I would refer the Court to the

Document C-156, which is already before the Court as Exhibit Number USA-41 and which the Tribunal will find at Page 26 of the document book. That document, as the Tribunal will remember, was *A History of the Fight of the German Navy against Versailles, 1919 to 1935,* which was published secretly by the German Admiralty in 1937. The Tribunal will remember that that history shows that before the Nazis came to power the German Admiralty was deceiving not only the governments of other countries, but its own legislature and at one stage its own Government. Their secret measures of rearmament ranged from experimental U-boat and S-boat building to the creation of secret intelligence and finance organizations. I only propose to trouble the Tribunal with a reference to the last paragraph at Page 33 of the document book, which refers to the role of Raeder in this development. It is an extract from Page 75 of this Document C-156, and it reads:

> "The Commander-in-Chief of the Navy, Admiral... Raeder, had received hereby a far-reaching independence in the building and development of the Navy. This was only hampered insofar as the previous concealment of rearmament had to be continued in consideration of the Versailles Treaty."

As an illustration of Raeder's concealment of rearmament, I would remind the Tribunal of the Document C-141, Exhibit Number USA-47, which is at Page 22 of the document book. In that document Raeder states that:

> "In view of Germany's treaty obligations and the disarmament conference, steps must be taken to prevent the first S-boat half-flotilla—which in a few months will comprise new S-boats of the same type—from appearing openly as a formation of torpedo-carrying boats, as it was not intended to count these S-boats against the number of torpedo-carrying boats allowed us."

The next document, C-135, which will be Exhibit Number GB-213, and which is at Page 20 of the document book, is of unusual interest because it suggests that even in 1930 the intention ultimately to attack Poland was already current in German military circles. This document is an extract from the history of war organization and of the scheme for mobilization. The German text of this document is headed "850/38," which suggests that the document was written in the year 1938. The extracts read:

> "Since under the Treaty of Versailles all preparations for mobilization were forbidden, these were at first confined to a very small body of collaborators and were at first only of a theoretical nature. Nevertheless, there existed at that time...

an 'Assembling Order,' and 'Instructions for Assembling,' the forerunners of the present-day scheme for mobilization, also an assembling organization and adaptable instructions for assembling which were drawn up for each 'A-year' (cover-name for mobilization year).

"As stated, the 'Assembling Organization' at that time was to be judged purely theoretically, for they had no positive basis in the form of men and materials. They provided nevertheless a valuable foundation for the establishment of a war organization as our ultimate aim."

Paragraph 2:

"The crises between Germany and Poland, which were becoming increasingly acute, compelled us, instead of making theoretical preparation for war, to prepare in a practical manner for a purely German-Polish conflict.

"The strategic idea of a rapid forcing of the Polish base of Gdynia was made a basis; and the fleet on active service was to be reinforced by the auxiliary forces which would be indispensable to attain this strategic end; and the essential coastal and flak batteries, especially those in Pillau and Swinemünde, were to be taken over. Thus in 1930 the Reinforcement Plan was evolved."

If the Tribunal turns over the page to Paragraph 3, to the second paragraph:

"Hitler had made a clear political request to build up for him in 5 years, that is to say, by the 1st of April 1938, armed forces which he could place in the balance as an instrument of political power."

Now that entry is a pointer to the fact that the Nazi seizure of power in 1933 was a signal to Raeder to go full speed ahead on rearmament. The detailed story of this development has already been told by my American colleague, Mr. Alderman; and I would simply refer the Court in the first place to the Document C-189, Exhibit Number USA-44, which is at Page 66 of the document book. In that document Raeder tells Hitler, in June 1934, that the German Fleet must be developed to oppose England and that therefore from 1936 on the big ships must be armed with big guns to match the British *King George* class of battleship. It further, in the last paragraph, refers to Hitler's demand that the construction of U-boats should be kept completely secret, especially in view of the Saar plebiscite. In November 1934 Raeder had a further talk with Hitler on the financing of naval rearmament, and on that occasion Hitler

told him that in case of need he would get Doctor Ley to put 120 to 150 million from the Labor Front at the disposal of the Navy. The reference to that is the Document C-190, Exhibit Number USA-45, at Page 67 of the document book. The Tribunal may think that that proposed fraud upon the German working people was a characteristic Nazi manifestation.

THE PRESIDENT: Would that be a convenient time to break off?

MAJOR JONES: If Your Lordship pleases.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

MAJOR JONES: May it please the Tribunal, the next document which I desire to draw to the Tribunal's attention is the Document C-23, Exhibit Number USA-49, at Page 3 of the document book, which states that the true displacement of certain German battleships exceeded by 20 percent the displacement reported to the British. That, I submit, is typical of Raeder's use of deceit.

The next document to which I wish to refer briefly is C-166, Exhibit Number USA-48, Page 36 of the document book. It is another such deceitful document, which orders that auxiliary cruisers, which were being secretly constructed, should be referred to as "transport ships."

Then there is the Document C-29, Exhibit Number USA-46, at Page 8 of the document book, which is signed by Raeder and deals with the support given by the German Navy to the German armament industry, and, I submit, is an illustration of Raeder's concern with the broader aspects of Nazi policy and of the close link between Nazi politicians, German service chiefs, and German armament manufacturers.

THE PRESIDENT: Has that been put in before?

MAJOR JONES: That has been put in before, My Lord, as Exhibit Number USA-46.

A final commentary on the post-1939 naval rearmament is the Document C-155, at Page 24 of the document book, which is a new document and will be Exhibit GB-214 and is a letter from Raeder to the German Navy, dated 11 June 1940. The original, which is now submitted to the Tribunal, shows the very wide distribution of this letter. There is provision in the distribution list for 467 copies. This letter of Raeder's is a letter both of self-justification and of apology. The extracts read:

> "The most outstanding of the numerous subjects of discussion in the Officers Corps are, for the time being, the torpedo positions and the problem whether the naval building program, up to autumn 1939, envisaged the possibility of the outbreak of war as early as 1939, or whether the emphasis ought not to have been laid, from the first, on the construction of U-boats....
>
> "If the opinion is voiced in the Officers Corps that the entire naval building program has been wrongly directed and if, from the first, the emphasis should have been on the U-boat weapon and after its consolidation on the large ships, I must emphasize the following matters:

"The building up of the fleet was directed according to the political demands, which were decided by the Führer. The Führer hoped, until the last moment, to be able to put off the threatening conflict with England until 1944-45. At that time the Navy would have had available a fleet with a powerful U-boat superiority and a much more favorable ratio as regards strength in all other types of ships, particularly those designed for warfare on the High Seas.

"The development of events forced the Navy, contrary to the expectation even of the Führer, into a war which it had to accept while still in the initial stage of its rearmament. The result is that those who represent the opinion that the emphasis should have been laid from the start on the building of the U-boat arm appear to be right. I leave undiscussed how far this development, quite apart from difficulties of personnel, training, and dockyards, could have been appreciably improved in any way in view of the political limits of the Anglo-German Naval Treaty. I leave also undiscussed, how the early and necessary creation of an effective air force slowed down the desirable development of the other branches of the forces. I indicate, however, with pride, the admirable and, in spite of the political restraints in the years of the Weimar Republic, far-reaching preparation for U-boat construction, which made the immensely rapid construction of the U-boat arm, both as regards equipment and personnel, possible immediately after the assumption of power. . . ."

There is here, the Tribunal sees, no trace of reluctance in cooperating with the Nazi program. On the contrary, the evidence points to the fact that Raeder welcomed and became one of the pillars of Nazi power. And it will now be my purpose to develop the relationship between Raeder, the Navy, and the Nazi Party.

The Prosecution's submission is that Raeder, more than anyone else, was responsible for securing the unquestioned allegiance of the German Navy to the Nazi movement, an allegiance which Dönitz was to make even more firm and fanatical.

Raeder's approval of Hitler was shown particularly clearly on the 2d of August 1934, the day of Hindenburg's death, when he and all the men under him swore a new oath of loyalty with considerable ceremony, this time to Adolf Hitler and no longer to the fatherland. The oath is found in the Document D-481 at Page 101 of the document book. That will be Exhibit GB-215, and it may be of interest to the Court to see what the new oath was. The last paragraph reads:

"The service oath of the soldiers of the armed forces:

"'I swear this holy oath by God that I will implicitly obey the Leader of the German Reich and people, Adolf Hitler, the Supreme Commander of the Armed Forces and that, as a brave soldier, I will be willing to stake my life at any time for this oath.'"

The Tribunal will see that for his fatherland Raeder substituted a Führer.

I am not proposing to take the Tribunal's time with reiterating the steps by which the German Navy was progressively drawn into the closest alliance with the Nazi Party. I would remind the Court of facts of history, like the incorporation of the swastika into the ensign under which the German Fleet sailed and the wearing of the swastika on the uniform of naval officers and men, which are facts which speak for themselves.

The Nazis for their part, were not ungrateful for Raeder's obeisance and collaboration. His services in rebuilding the German Navy were widely recognized by Nazi propagandists and by the Nazi press. On his 66th birthday, the chief Party organ, the *Völkischer Beobachter,* published a special article about him, to which I desire to draw the Tribunal's attention. It is at Page 100 of the document book; it is Document D-448, Exhibit GB-216. It is a valuable summing up of Raeder's contribution to Nazi development:

"It was to Raeder's credit"—writes the *Völkischer Beobachter* —"to have already built up by that time a powerful striking force from the numerically small fleet, despite the fetters of Versailles.

"With the assumption of power, National Socialism began the most fruitful period in the reconstruction of the German fleet.

"The Führer openly expressed his recognition of Raeder's faithful services and unstinted co-operation, by appointing him Grossadmiral on the 20th of April 1936."

THE PRESIDENT: Do you think it necessary to read the entire document?

MAJOR JONES: I was going to turn to the last paragraph but one, My Lord, which I think is helpful.

"As a soldier and a seaman, the Grossadmiral has proved himself to be the Führer's first and foremost naval collaborator."

This, in my submission, is a summing up of his status and position in Nazi Germany.

I now propose to deal with Raeder's personal part in the Nazi conspiracy. The evidence indicates that Raeder, from the time of

the Nazi seizure of power, became increasingly involved in responsibility for the general policies of the Nazi State.

Long before he was promoted to General-Admiral in 1936, he had become a member of the very secret Reich Defense Council, joining it when it was founded on the 4th of April 1933. And thus, at an early date, he was involved, both militarily and politically, in the Nazi conspiracy. The relevant document upon that is Document EC-177, Exhibit Number USA-390, at Page 68 of the document book, which I would remind the Tribunal contains the classic Nazi directive: "Matters communicated orally cannot be proven; they can be denied by us in Geneva."

On the 4th of February 1938 Raeder was appointed to be a member of a newly formed secret advisory council for foreign affairs; and the authority for that statement is Document 2031-PS at Page 88 of the document book, which will be Exhibit GB-217.

Three weeks after this a decree of Hitler's stated that, as well as being equal in rank with a cabinet minister, Raeder was also to take part in the sessions of the Cabinet. That has already been established in Document 2098-PS, which was submitted as Exhibit GB-206.

In my submission, therefore, it is thus clear that Raeder's responsibility for the political decisions of the Nazi State was steadily developed from 1933 to 1938 and that in the course of time he had become a member of all the main political advisory bodies. He was, indeed, very much a member of the inner councils of the conspirators and, I submit, must carry with them the responsibility for the acts that led to the German invasion of Poland in 1939 and the outbreak of war.

As an illustration, I would remind the Tribunal that Raeder was present at two of the key meetings at which Hitler openly declared his intention of attacking neighboring countries. I refer the Tribunal to Document 386-PS, which is Exhibit Number USA-25 and is found at Page 81 of the document book, which the Tribunal will remember is the record of Hitler's conference at the Reich Chancellery on the 5th of November 1937 about matters which were said to be too important to discuss in the larger circle of the Reich Cabinet. The document, which Mr. Alderman submitted, establishes conclusively that the Nazis premeditated their Crimes against Peace.

Then there was the other conference of Hitler's on the 23rd of May 1939, the minutes of which are found in the Document L-79, Exhibit Number USA-27, at Page 74 of the document book. That, the Tribunal will remember, was the conference at which Hitler

confirmed his intention to make a deliberate attack upon Poland at the first opportunity, well knowing that this must cause widespread war in Europe.

Now, those two were key conferences. At many, many others Raeder was also present to place his knowledge and his professional skill at the service of the Nazi war machine.

His active promotion of the military planning and preparation for the Polish campaign is by now well known to the Tribunal, and I am not proposing to reiterate that evidence again. Once the war did start, however, the Defendant Raeder showed himself to be a master of the most typical of the conspirators' techniques, namely that of deceit on a grand scale. There are few better examples of this allegation than that of his handling of the case of the *Athenia.*

The *Athenia,* as the Tribunal will be aware, was a passenger liner which was sunk in the evening of the 3rd of September 1939, when she was outward bound to America, about a hundred lives being lost.

On the 23rd of October 1939 the Nazi Party paper, the *Völkischer Beobachter,* published in screaming headlines the story, "Churchill Sank the *Athenia.*" I would refer the Court to Document 3260-PS, at Page 97 of the document book, which will be Exhibit GB-218. And I would like the Tribunal to look for a moment at the copy of the *Völkischer Beobachter* here, and see the scale with which this deliberate lie was perpetrated. I have a photostat of the relevant page of the *Völkischer Beobachter* for that day. That is the third page and the Tribunal will see on this front page, with the big red underlining, there are the words, "Now We Indict Churchill."

The extract from the *Völkischer Beobachter,* which is at Page 97 of the document book, reads as follows:

> "Churchill Sank the *Athenia.* The above picture"—and the Tribunal will see it is a fine picture of this fine ship—"shows the proud *Athenia,* the ocean giant, which was sunk by Churchill's crime. One can clearly see the big radio equipment on board the ship. But nowhere was an SOS heard from the ship. Why was the *Athenia* silent? Because her captain was not allowed to tell the world anything. He very prudently refrained from telling the world that Winston Churchill attempted to sink the ship through the explosion of a time bomb. He knew it well, but he had to keep silent. Nearly 1,500 people would have lost their lives if Churchill's original plan had resulted as the criminal wanted. Yes, he longingly hoped that the 100 Americans on board the ship would find death in the waves so that the anger of the

American people, who were deceived by him, should be directed against Germany, as the presumed author of the deed. It was fortunate that the majority escaped the fate intended for them by Churchill. Our picture on the right shows two wounded passengers. They were rescued by the freighter *City of Flint,* and as can be seen here, turned over to the American coast guard boat *Gibb* for further medical treatment. They are an unspoken accusation against the criminal Churchill. Both they and the shades of those who lost their lives call him before the tribunal of the world and ask the British people, 'How long will the office, one of the richest in tradition known to Great Britain's history, be held by a murderer?'"

Now, in view of the maliciousness of this *Völkischer Beobachter* announcement and in fairness to the men of the British Merchant Navy, I think it is proper that I should say, that contrary to the allegation in this Nazi sheet, the *Athenia* of course made repeated wireless distress signals which were in fact intercepted and answered by His Majesty's ship *Electra,* in escort, as well as by the Norwegian steamship *Knut Nelson* and the yacht *Southern Cross.*

I shall submit evidence to the Tribunal to establish that, in fact, the *Athenia* was sunk by the German U-boat *U-30.* So unjustifiable was the torpedoing of the *Athenia,* however, that the German Navy embarked upon a course of falsification of their records and on other dishonest measures, in the hope of hiding this guilty secret. And for their part, as the Tribunal has seen, the Nazi propagandists indulged in their favorite falsehood of seeking to shift the responsibility to the British.

The captain of the *U-30,* Oberleutnant Lemp, was later killed in action; but some of the original crew of the *U-30* have survived to tell the tale, and they are now prisoners of war. And so that the truth of this episode may be placed beyond a peradventure, I submit to the Tribunal an affidavit by a member of the crew of the *U-30,* as to the sinking of the *Athenia* and as to one aspect of the attempt to conceal the true facts.

I refer to Document C-654, Exhibit GB-219, at Page 106 of the document book. The affidavit reads:

"I, Adolf Schmidt, Official Number N 1043-33 T, of the German Navy and former member of the crew of the *U-30,* do solemnly declare that:

"1. I am now confined to Camp No. 133, Lethbridge, Alberta.

"2. That on the first day of war, 3 September 1939, a ship of approximately 10,000 tons was torpedoed in the late hours of the evening by the *U-30.*

"3. That after the ship was torpedoed and we surfaced again, approximately half an hour after the explosion, the commandant called me to the tower in order to show me the torpedoed ship.

"4. That I have seen the ship with my very eyes, but that I do not think that the ship could see our U-boat at that time on account of the position of the moon.

"5. That only a few members of the crew had an opportunity to go to the tower in order to see the torpedoed ship.

"6. That apart from myself, Oberleutnant Hinsch was in the tower when I saw the steamer after the attack.

"7. That I observed that the ship was listing.

"8. That no warning shot was fired before the torpedo was launched.

"9. That I myself observed much commotion on board the torpedoed ship.

"10. That I believe that the ship had only one smoke stack.

"11. That in the attack on this steamer one or two torpedoes were fired which did not explode but that I myself heard the explosion of the torpedo which hit the steamer.

"12. That Oberleutnant Lemp waited until darkness before surfacing.

"13. That I was severely wounded by aircraft 14 September 1939.

"14. That Oberleutnant Lemp, shortly before my disembarkation in Reykjavik 19 September 1939, visited me in the forenoon in the petty officers' quarters where I was lying severely wounded.

"15. That Oberleutnant Lemp then had the petty officers' quarters cleared in order to be alone with me.

"16. That Oberleutnant Lemp then showed me a declaration under oath according to which I had to bind myself to mention nothing concerning the incidents of 3 September 1939 on board the *U-30*.

"17. That this declaration under oath had approximately the following wording:

"'I, the undersigned, swear hereby that I shall shroud in secrecy all happenings of 3 September 1939 on board the *U-30*, regardless whether foe or friend, and that I shall erase from my memory all happenings of this day.'

"18. That I have signed this declaration under oath, which was drawn up by the commandant in his own handwriting, with my left hand very illegibly.

"19. That later on in Iceland when I heard about the sinking of the *Athenia* the idea came into my mind that the *U-30* on the 3 September 1939 might have sunk the *Athenia,* especially since the captain caused me to sign the above-mentioned declaration.

"20. That up to today I have never spoken to anyone concerning these events.

"21. That due to the termination of the war I consider myself freed from my oath."

Dönitz' part in the *Athenia* episode is described in an affidavit which he has sworn, which is Document D-638, Exhibit GB-220, at Page 102 of the document book. The affidavit was sworn in English, and I invite the Tribunal to look at it and observe the addition in Dönitz' handwriting of four words at the end of the affidavit, the significance of which will be seen in a moment.

The Defendant Dönitz states:

"*U-30* returned to harbor about mid-September. I met the captain, Oberleutnant Lemp, on the lockside at Wilhelmshaven, as the boat was entering harbor, and he asked permission to speak to me in private. I noticed immediately that he was looking very unhappy and he told me at once that he thought he was responsible for the sinking of the *Athenia* in the North Channel area. In accordance with my previous instructions he had been keeping a sharp lookout for possible armed merchant cruisers in the approaches to the British Isles, and had torpedoed a ship he afterwards identified as the *Athenia* from wireless broadcasts, under the impression that she was an armed merchant cruiser on patrol. I had never specified in my instructions any particular type of ship as armed merchant cruiser nor mentioned any names of ships. I dispatched Lemp at once by air to report to the SKL at Berlin; in the meantime, I ordered complete secrecy as a provisional measure. Later in the same day or early on the following day, I received a verbal order from Kapitän zur See Fricke"—who was head of the operations division of the naval war staff—"that:

"Firstly, the affair was to be kept a total secret.

"Secondly, the OKM considered that a court-martial was not necessary as they were satisfied that the captain had acted in good faith.

"Thirdly, political explanations would be handled by the OKM.

"I had had no part whatsoever in the political events in which the Führer claimed that no U-boat had sunk the *Athenia.*

"After Lemp returned to Wilhelmshaven from Berlin, I interrogated him thoroughly on the sinking and formed the impression that, although he had taken reasonable care, he had still not taken sufficient precaution to establish fully the identity of the ship before attacking. I had previously given very strict orders that all merchant vessels and neutrals were to be treated according to naval prize law before the occurrence of this incident. I accordingly placed him under cabin arrest, as I felt certain that a court-martial would only acquit him and would entail unnecessary publicity"—and then Dönitz had added the words "and loss of time."

It is right, I think, that I should add the Dönitz' suggestion that the captain of the *U-30* sank the *Athenia* in mistake for a merchant cruiser must be considered in the light of a document which Colonel Phillimore submitted—the Document C-191, Exhibit GB-193, dated the 22 of September 1939—in this period, which contained Dönitz' order that "the sinking of a merchant ship must be justified in the War Diary as due to possible confusion with a warship or an auxiliary cruiser."

Now, the *U-30* returned to Wilhelmshaven on 27 September 1939. I submit another fraudulent naval document, Document D-659, Page 110 of the document book, which will be Exhibit GB-221, which is an extract from the War Diary of the chief of U-boats, and it is an extract for the 27th of September 1939. The Tribunal will see that it reads:

"*U-30* comes in. She had sunk: S. S. *Blairlogies;* S. S. *Fanad Head.*"

There is no reference at all, of course, to the sinking of the *Athenia.*

But perhaps the most elaborate forgery in connection with this episode was the forgery of the log book of the *U-30,* which was responsible for sinking the *Athenia;* and I now submit that original log book to the Tribunal as Document D-662, which will be Exhibit GB-222, and an extract from the first and relevant page of it is found at Page 111 of the document book. I would like the Tribunal to examine the original, if you will be good enough to do so, because the Prosecution's submission is that the first page of that log book is a forgery, but a forgery which shows a curiously un-German carelessness about detail. The Tribunal will see that the first page of the text is a clear substitute for pages that have been removed. The dates in the first column of that page are in Arabic numerals. On the second and more authentic looking page, and throughout the other pages of the log book, they are in Roman numerals.

The Tribunal will also see that all reference to the action of the sinking of the *Athenia* on the 3rd of September is omitted. The entries are translated on Page 111 of the document book for the Court's assistance.

The log book shows that the position at 1400 hours, of the *U-30* on the 3rd of September, is given as AL 0278, which the Tribunal will notice is one of the very few positions quoted at all upon that page, and which was, in fact, some 200 miles west of the position where the *Athenia* was sunk. The course due south, which is recorded in the log book, and the speed of 10 knots—those entries are obviously designed to suggest that the *U-30* was well clear of the *Athenia's* position on the 3rd of September.

Finally, and most curiously, the Tribunal will observe that Lemp's own signature upon the page dealing with the 3rd of September differs from the other signatures in the text. Page 1 shows Lemp's signature with a Roman "p" as the final letter of his name. On the other signatures, there is a script "p," and the inference I submit is that either the signature is a forgery or it was made up by Lemp at some other, and probably considerably later date.

Now, in my submission, the whole of this *Athenia* story establishes that the German Navy under Raeder embarked upon deliberate fraud. Even before receiving Lemp's reports, the German Admiralty had repeatedly denied the possibility that a German U-boat could be in the area concerned. The charts which showed the disposition of U-boats and the position of sinking of the *Athenia,* which Colonel Phillimore introduced, have shown the utter dishonesty of these announcements; and my submission upon this matter is this: Raeder, as head of the German Navy, knew all the facts. Censorship and information control in Nazi Germany were so complete that Raeder, as head of the Navy, must have been party to the falsification published in the *Völkischer Beobachter,* which was a wholly dishonorable attempt by the Nazi conspirators to save their faces with their own people and to uphold the myth of an infallible Führer backed by an impeccable war machine.

The Tribunal has seen that truth mattered little in Nazi propaganda, and it would appear that Raeder's camouflage was not confined to painting his ships or sailing them under the British flag, as he did in attacking Norway and Denmark. With regard to that last matter—the invasion of Norway and Denmark—I think it is hardly necessary that I should remind the Tribunal of Raeder's leading part in that perfidious Nazi assault, the evidence as to which has already been presented. I think I need only add Raeder's proud comment upon those brutal invasions, which is

contained in his letter in Document C-155 at Page 25 of the document book, which is already before the Tribunal as Exhibit GB-214. That document, which is a letter of Raeder's to the Navy, part of which I have already read, states: "The operations of the Navy in the occupation of Norway will for all time remain the grand contribution of the Navy to this war."

Now, with the occupation of Norway and of much of Western Europe safely completed, the Tribunal has seen that Hitler turned his eyes towards Russia. Now, in fairness to Raeder, it is right that I should say that Raeder himself was against the attack on Russia and tried his best to dissuade Hitler from embarking upon it. The documents show, however, that Raeder approached the problem with complete cynicism. He did not object to the aggressive war on Russia because of its illegality, its immorality, its inhumanity. His only objection to it was its untimeliness. He wanted to finish England first before going further afield.

The story of Raeder's part in the deliberations upon the war against Russia is told in the Document C-170, at Page 37 of the document book, which has already been submitted as Exhibit Number USA-136. That document consists of extracts from a German compilation of official naval notes by the German naval war staff.

The first entry, at Page 47 of the document book, which bore the date of 26 September 1940, which is at Page 11 of Document C-170, showed that Raeder was advocating to Hitler an aggressive Mediterranean policy in which, of course, the Navy would play a paramount role, as opposed to a continental land policy. The entry reads:

> "Naval Supreme Commander with the Führer. Naval Supreme Commander presents his opinion about the situation: The Suez Canal must be captured with German assistance. From Suez, advance through Palestine and Syria; then Turkey in our power. The Russian problem will then assume a different appearance. Russia is fundamentally frightened of Germany. It is questionable whether action against Russia from the north will then be still necessary."

The next entry at Page 48 of the document book, for the 14th of November:

> "Naval Supreme Commander with the Führer. Führer is 'still inclined' to instigate the conflict with Russia. Naval Supreme Commander recommends putting it off until the time after the victory over England, since there is heavy strain on German forces and the end of warfare is not in sight."

Then there is the entry on Page 50 for 27 December 1940:

"Naval Supreme Commander with the Führer. Naval Supreme Commander emphasizes again that strict concentration of our entire war effort against England as our main enemy is the most urgent need of the hour. On the one hand, England has gained strength by the unfortunate Italian conduct of the war in the eastern Mediterranean and by the increasing American support. On the other hand, however, she can be hit mortally by a strangulation of her ocean traffic which is already taking effect. What is being done for submarine and naval air force construction is much too little. Our entire war potential must work for the conduct of the war against England; thus for the Navy and Air Force, every dispersion of strength prolongs the war and endangers the final success. Naval Supreme Commander voices serious objections against Russia campaign before the defeat of England."

At Page 52 of the document book, on the 18th of February 1941, there is the entry:

"Chief of Naval Operations (SKL) insists on the occupation of Malta even before Barbarossa."

On the next page, on the 23rd of February, there is this interesting entry:

"Instruction from Supreme Command, Armed Forces (OKW) that seizure of Malta 'is contemplated for the fall of 1941 after the execution of Barbarossa'"—which the Tribunal may think is a sublime example of wishful thinking.

The next entry, for the 19th of March 1941, which is at Page 54 of the document book, shows that by March of 1941 Raeder had begun to consider what prospects of naval action the Russian aggression had to offer. There is the entry:

"In case of Barbarossa, Supreme Naval Commander describes the occupation of Murmansk as an urgent request of the Navy; Chief of Supreme Command Armed Forces considers compliance very difficult. . . ."

In the meantime, the entries in this document show that Mussolini, the flunky of Nazism, was crying out for a more active Nazi Mediterranean policy. I refer the Court to Page 57 of the document book, the entry for the 30th of May. The word "Duce" is omitted from the first line, and the entry should read:

"Duce demands urgently decisive offensive Egypt-Suez for fall 1941; 12 divisions needed for that. 'This stroke would be more deadly to the British Empire than the capture of London'; Chief, Naval Operations, agrees completely. . . ."

And then, finally, the entry for the 6th of June, indicating strategic views of Raeder and the German Navy at this stage, reads as follows. It is at Page 58 of the document book:

"Supreme Naval Commander with the Führer. Memorandum of the Chief, Naval Operations: 'Observation of the strategic situation in the eastern Mediterranean after the Balkan campaign and the occupation of Crete and further conduct of the war.'"

A few sentences below:

"The memorandum points with impressive clarity to the decisive aims of the war in the Near East. Their advancement has moved into grasping distance by the successes in the Aegean area and the memorandum emphasizes that the offensive utilization of the present favorable situation must take place with the greatest acceleration and energy, before England has again strengthened her position in the Near East with help from the United States of America. The memorandum realizes the unalterable fact that the campaign against Russia would be opened very shortly; but demands, however, that the undertaking Barbarossa 'which, because of the magnitude of its aims, naturally stands in the foreground of the operational plans of the armed forces leadership,' must under no circumstances 'lead to an abandonment, diminishing, or delay of the conduct of the war in the eastern Mediterranean.'"

So that Raeder was, throughout, seeking an active role for his Navy in the Nazi war plans.

Now, once Hitler had decided to attack Russia, Raeder sought a role for his Navy in the campaign against Russia; and the first naval operational plan against Russia was a particularly perfidious one. I refer the Tribunal to the Document C-170 which I have just been reading from, at Page 59 of the document book. There the Tribunal will see an entry for the 15th of June 1941:

"On the proposal of Chief Naval Operations . . . use of arms against Russian submarines south of the northern boundary of the Öland warning area is permitted immediately; ruthless destruction is to be aimed at."

The Defendant Keitel provided a characteristically dishonest pretext for this action in his letter, the Document C-38, which is at Page 11 of the document book and which will be Exhibit GB-223. The Tribunal sees that Keitel's letter is dated the 15th of June 1941:

"Subject: Offensive action against enemy submarines in the Baltic Sea.

"To: High Command of the Navy—OKM (SKL).

"Offensive action against submarines south of the line Memel-southern tip of Öland is authorized if the boats cannot be definitely identified as Swedish during the approach by German naval forces.

"The reason to be given up to B-day is that our naval forces believed to be dealing with penetrating British submarines."

Now, that was on the 15th of June 1941, and the Tribunal will remember that the Nazi attack on Russia did not take place until the 22d of June of 1941. In the meantime Raeder was urging Hitler, as early as the 18th of March 1941, to enlarge the scope of the world war by inducing Japan to seize Singapore. The relevant document is C-152, Exhibit GB-122, at Page 23 of the document book. There is just one paragraph which I would like to be permitted to read. The document describes the audience of Raeder with Hitler on the 18th of March and the entries in it, in fact, represent Raeder's own views:

"Japan must take steps to seize Singapore as soon as possible, since the opportunity will never again be as favorable (whole English fleet contained; unpreparedness of U.S.A. for war against Japan; inferiority of U.S. fleet *vis-à-vis* the Japanese). Japan is indeed making preparations for this action, but according to all declarations made by Japanese officers she will carry it out only if Germany proceeds to land in England. Germany must therefore concentrate all her efforts on spurring Japan to act immediately. If Japan has Singapore all other East Asiatic questions regarding the U.S.A. and England are thereby solved (Guam, Philippines, Borneo, Dutch East Indies).

"Japan wishes, if possible, to avoid war against the U.S.A. She can do so if she determinedly takes Singapore as soon as possible."

The Japanese, of course, as events proved, had different ideas from that.

By the 20th of April 1941, the evidence is that Hitler had agreed with this proposition of Raeder's of inducing the Japanese to take offensive action against Singapore. I refer the Tribunal again to the Document C-170 and to an entry at Page 56 of the document book, for the 20th of April 1941. A few sentences from that read:

"Naval Supreme Commander with Führer. Navy Supreme Commander asks about result of Matsuoka's visit and evaluation of Japanese-Russian pact. . . . Führer has informed Matsuoka 'that Russia will not be touched if she behaves in a friendly manner according to the treaty. Otherwise, he reserves action for himself.' Japan-Russia pact has been concluded in agreement with Germany and is to prevent Japan from advancing against Vladivostok and to cause her to attack Singapore."

Now an interesting commentary upon this document is found in the Document C-66, at Page 13 of the document book. The

Document C-66 has already been exhibited as GB-81. I would refer the Court to Paragraph 3 at Page 13 of the document book. At that time the Führer was firmly resolved on a surprise attack on Russia, regardless of what was the Russian attitude to Germany. This, according to reports coming in, was frequently changing; and there follows this interesting sentence: "The communication to Matsuoka was designed entirely as a camouflage measure and to ensure surprise."

The Axis partners were not even honest with each other, and this, I submit, is typical of the kind of jungle diplomacy with which Raeder associated himself.

I now, with the Tribunal's permission, turn from the field of diplomacy to the final aspect of the case against Raeder, namely, to crimes at sea.

The Prosecution's submission is that Raeder throughout his career showed a complete disregard for any international rule or usage of war which conflicted in the slightest with his intention of carrying through the Nazi program of conquest. I propose to submit to the Tribunal only a few examples of Raeder's flouting of the laws and customs of civilized states.

Raeder has himself summarized his attitude in the most admirable fashion in the Document UK-65, which the Tribunal will find at Page 98 of the document book, and which will be Exhibit GB-224. Now that Document UK-65 is a very long memorandum compiled by Raeder and the German naval war staff on the 15th of October 1939—that is to say, only a few weeks after the war started. And it is a memorandum on the subject of the intensification of the war at sea, and I desire to draw the Tribunal's attention to the bottom paragraph at Page 98 of the document book. It is headed, "Possibilities of Future Naval Warfare":

> "I. Military requirements for the decisive struggle against Great Britain:
>
> "Our naval strategy will have to employ all the military means at our disposal as expeditiously as possible. Military success can be most confidently expected if we attack British sea communications wherever they are accessible to us, with the greatest ruthlessness; the final aim of such attacks is to cut off all imports into and exports from Britain. We should try to consider the interests of neutrals in so far as this is possible without detriment to military requirements. It is desirable to base all military measures taken on existing international law; however, measures which are considered necessary from a military point of view, provided a decisive success can be expected from them, will have to be carried

out, even if they are not covered by existing international law. In principle, therefore, any means of warfare which is effective in breaking enemy resistance should be based on some legal conception"—the nature of which is not specified —"even if that entails the creation of a new code of naval warfare.

"The supreme war council... will have to decide what measures of military and legal nature are to be taken. Once it has been decided to conduct economic warfare in its most ruthless form, in fulfillment of military requirements, this decision is to be adhered to under all circumstances. Under no circumstances may such a decision for the most ruthless form of economic warfare, once it has been made, be dropped or released under political pressure from neutral powers; that is what happened in the World War to our own detriment. Every protest by neutral powers must be turned down. Even threats of further countries, particularly of the United States, coming into the war, which can be expected with certainty should the war last a long time, must not lead to a relaxation in the form of economic warfare once embarked upon. The more ruthlessly economic warfare is waged, the earlier will it show results and the sooner will the war come to an end. The economic effect of such military measures on our own war economy must be fully recognized and compensated through immediate reorientation of German war economy and the re-drafting of the respective agreements with neutral states; for"—these are the final words—"for this, strong political and economic pressure must be employed if necessary."

I submit that those comments are most revealing; and the general submission of the Prosecution is that as an active member of the inner council of the Nazi State right up to 1943, Raeder, holding such ideas as these, must share responsibility for the many War Crimes committed by his confederates and their underlings in the course of the war.

But quite apart from this over-all responsibility of Raeder, there are certain crimes which the Prosecution submits were essentially initiated and passed down the naval chain of command by Raeder himself.

I refer to the Document C-27, at Page 7 of the document book, which will be Exhibit GB-225. Those are minutes of a meeting between Hitler and Raeder on the 30th of December 1939. I will read with the Court's approval the second paragraph beginning:

"The Chief of the Naval Operations Staff requests that full power be given to the Naval Operations Staff in making any

intensification suited to the situation and to the means of war. The Führer agrees in principle to the sinking without warning of Greek ships in the American prohibited area and of neutral ships in those sections of the American prohibited area in which the fiction of mine danger can be upheld, e.g., the Bristol Channel."

At this time, of course, as the Tribunal knows, Greek ships were also neutral and I submit that this is yet another demonstration of the fact that Raeder was a man without principle.

This incitement to crime was, in my submission, a typical group effort, because in the Document C-12, which is at Page 1 of the document book, the Tribunal will see that a directive to the effect of those naval views was issued on the 30th of December 1939 by the OKW, being signed by the Defendant Jodl. And that Document C-12 will be Exhibit GB-226. It is an interesting document. It is dated the 30th of December 1939, and it reads:

"On the 30th of December 1939, according to a report of the Supreme Commander of the Navy, the Führer and Supreme Commander of the Armed Forces decided that:

"1) Greek merchant ships in the area declared by England and the U.S.A. to be a barred zone are to be treated as enemy vessels.

"2) In the Bristol Channel all shipping may be attacked without warning—where the impression of a mining incident can be created.

"Both measures are authorized to come into effect immediately."

Another example of the callous attitude of the German Navy, when it was under Raeder's command, towards neutral shipping, is found in an entry in Jodl's diary...

THE PRESIDENT: I think perhaps you should read the pencil note, oughtn't you?

MAJOR JONES: The pencil note on the Document C-12 reads:

"Add to 1): Attack must be carried out without being seen. The denial of the sinking of these steamships, in case the expected protests are made, must be possible."

As I was saying, My Lord, another example of the callous attitude of Raeder's Navy towards neutral shipping is found in an entry in Jodl's diary for the 16th of June 1942, at Page 112 of the document book, which is Document 1807-PS, and will be Exhibit GB-227. This extract from Jodl's Diary is dated the 16th of June 1942 and it reads:

"The Operational Staff of the Navy (SKL) applied on the 29th May for permission to attack the Brazilian sea and air

forces. The SKL considers that a sudden blow against the Brazilian war ships and merchant ships is expedient at this juncture because defense measures are still incomplete, because there is the possibility of achieving surprise, and because Brazil is actually fighting Germany at sea."

This, the Tribunal will see, was a plan for a kind of Brazilian "Pearl Harbor" because the Tribunal will recollect that war did not in effect break out between Germany and Brazil until the 22d of August 1942.

Raeder himself also caused the Navy to participate in War Crimes ordered by other conspirators, and I shall give one example only of that.

On the 28th of October 1942, as the Document C-179, Exhibit USA-543, at Page 63 of the document book shows, the head of the operations division of the naval war staff promulgated to naval commands Hitler's notorious order of the 18th of October 1942 with regard to the shooting of Commandos which in my submission amounted to denying the protection of the Geneva Convention to captured Commandos.

The Tribunal will remember the document is dated the 28th of October 1942, and it reads:

"Enclosed please find a Führer order regarding annihilation of terror and sabotage units.

"This order must not be distributed in writing to officers below the rank of a flotilla leader or a section commander. After verbal notification to subordinate sections such officers must hand this order over to the next higher section which is responsible for its withdrawal and destruction."

What clearer indication could there be than the nature of these instructions as to the naval command's appreciation of the wrongfulness of the murders Hitler ordered?

THE PRESIDENT: Shall we adjourn now for 10 minutes?

[A recess was taken.]

MAJOR JONES: I have drawn the Tribunal's attention to the circulation of Hitler's order to shoot Commandos. I now draw the Tribunal's attention to an example of the execution of that order by the German Navy during the period when Raeder was its commander.

My learned friend Mr. Roberts has already given the Tribunal an account of a Commando operation of December 1942, which had as its objective an attack on shipping in Bordeaux harbor. The

Tribunal will recollect that the Wehrmacht account he quoted, Document UK-57, Exhibit GB-164, stated that six of the 10 participants in that commando raid were arrested and that all were shot on the 23 March 1943. In connection with that episode the Prosecution has a further document throwing more light on this Bordeaux incident and showing how much more expeditiously the Navy under Raeder had implemented Hitler's order on this particular occasion. I draw the Court's attention to Document C-176, at Page 61 of the document book, Exhibit GB-228.

That document consists of extracts from the war diary of Admiral Bachmann, who was the German flag officer in charge of western France. The first entry, at Page 61, is dated 10 December 1942 and reads:

> "About 1015. Telephone call from personal representative of the Commander of the SD in Paris, SS Obersturmführer Dr. Schmidt, to flag lieutenant, requesting postponement of the shooting, as interrogation had not been concluded . . . .
>
> "After consultation with the Chief of Operations Staff, the SD had been directed to get approval direct from headquarters.
>
> "1820. SD, Bordeaux, requested Superior SD Office at Führer's headquarters to postpone the shooting for 3 days. Interrogations continued for the time being."
>
> The next day, 11 December 1942:
>
> "Shooting of two English prisoners was carried out by a unit (strength 1/16 men) attached to the harbor command, Bordeaux, in the presence of an officer of the SD on order of the Führer."

Then there is a note in green pencil in the margin opposite this entry which reads:

> "SD should have done this. Phone flag officer in charge in future cases."

The Tribunal will therefore see from this Document C-176, that the first two gallant men to be shot as a result of the Bordeaux operation were actually put to death by a naval firing party on the 11th of December 1942. They were Sergeant Wallace and Marine Ewart, who had the misfortune to be captured on the 8th of December in the preliminary stages of the operation.

Of interest is the comment of the naval war staff upon this shooting, which is found in Document D-658.

THE PRESIDENT: What do the last two lines in Document C-176 about the operation being "particularly favored" mean?

MAJOR JONES: "The operation was particularly favored by the weather conditions and the dark night"—that presumably, My Lord,

is a reference to the operation of the marine Commandos in successfully blowing up a number of German ships in Bordeaux harbor. Alternately, I am advised by the naval officer who is assisting me, that it probably is a reference to the conditions prevailing at the time of the shooting of the two men.

THE PRESIDENT: I should have thought so.

MAJOR JONES: I stand corrected by the representative of the British Navy upon my interpretation of the matter.

THE PRESIDENT: Doesn't it indicate that naval men had done it?

MAJOR JONES: The shooting was in fact, as the entry of 11 December shows, carried out by a naval party—by units belonging to the naval officer in charge of Bordeaux.

THE PRESIDENT: Yes.

MAJOR JONES: I was seeking to draw the Tribunal's attention to the comment of the naval war staff upon that shooting, which is in Document D-658, at Page 109, Exhibit GB-229. It reads:

> "The Naval Commander, west France, reports that during the course of the day explosives with magnets to stick on, mapping material dealing with the mouth of the Gironde, aerial photographs of the port installations at Bordeaux, camouflage material, and food and water for several days were found. Attempts to salvage the canoe were unsuccessful. The Naval Commander west France has ordered that both soldiers be shot immediately for attempted sabotage, if their interrogation, which has begun, confirms what has so far been discovered; their execution has, however, been postponed in order to obtain more information.
>
> "According to a Wehrmacht report, both soldiers have meanwhile been shot. The measure would be in accordance with the Führer's special order but is nevertheless something new in international law, since the soldiers were in uniform."

I submit that that last sentence shows very clearly that the Naval High Command under Raeder accepted allegiance to the Nazi conspiracy as of greater importance than any question of moral principle or of professional honor and integrity. This operation of the shooting of those two Commandos was, as I submit, not an act of war, but a murder of two gallant men; and it is upon this somber note that it is my duty to summarize this part of the Prosecution's case against the Defendant Raeder.

The Prosecution's submission is that he was not just a military puppet carrying out political orders. The Tribunal has seen that, before the Nazis came, he had worked actively to rebuild the German Navy behind the back of the Reichstag. When the Nazis

seized power, he unreservedly joined forces with them. He was the prime mover in transferring the loyalty of the German Navy to the Nazi Party. He was as much a member of the inner councils of the Nazis as possibly any other defendant. And he was a member of their main political advisory bodies.

He was well aware of their aggressive designs and I submit he assisted in their realization not only as a military technician, but also as a mendacious politician. And he furthered, as I have submitted, their brutal methods of warfare. And yet of all these conspirators Raeder was one of the first to fall from his high position. It is in fact true that the extension of war beyond the boundaries of Poland came as a disappointment to him. His vision of a Nazi armada mastering the Atlantic reckoned without Ribbentrop's diplomacy and Hitler's ideas of strategy.

I would draw the Tribunal's attention to Document C-161, at Page 35 of the document book, which is an extract, Exhibit GB-230, from a memorandum of Raeder, dated 10 January 1943, just before his retirement, entitled, "The Importance of German Surface Forces for Conducting the War by the Powers Signatory to the Three Power Pact." The material entry reads:

> "... it was planned by the leaders of the National Socialist Reich to give the German Navy by 1944-45 such a strength that it would be possible to strike at the British vital arteries in the Atlantic with sufficient ships, fighting power, and range.
>
> "In 1939, the war having begun 5 years earlier, the construction of these forces was still in its initial stages.... "

The Tribunal will see from that document how completely Raeder was cheated in his ambitious plans by miscalculation as to when his high seas fleet would be required. The Tribunal has seen that Raeder made a great effort to recover some of his lost glory with his attack on an inoffensive Norway. He made many efforts to liven up the war at sea, both at the expense of neutrals and also of the customs and laws of the sea. But his further schemes, however, were disregarded by his fellow conspirators, and in January 1943, Raeder retired, and thereafter he was a leader in name only.

I invite the Court's attention to the Document D-655, at Page 108 of the document book, Exhibit GB-231, which is a record in Raeder's handwriting of his interview with Hitler on the 6th of January 1943, which led to Raeder's retirement. I am only proposing to read the fifth paragraph, in which Raeder records:

> "... if the Führer was anxious to demonstrate that the parting was of the friendliest character and wished that the name Raeder should continue to be associated with the Navy, particularly abroad, it would perhaps be possible to make an appointment to the Inspector General, giving appropriate

publicity in the press, *et cetera*. But a new Commander-in-Chief of the Navy with full responsibility for this office must be appointed. The position of Inspector General, or whatever it was decided to call it, must be purely nominal.

"The Führer"—the record reads—"accepted this suggestion with alacrity. The Inspector General could perhaps carry out special tasks for him, make tours of inspection, *et cetera*. The name of Raeder was still to be associated with the Navy. After Commander-in-Chief of the Navy had repeated his request, the Führer definitely agreed to 30th January as his release date. He would like to think over the details."

This was Raeder's twilight, and indeed a very different occasion from the period of his ascendancy in 1939, when on the 12th of March Raeder spoke on the occasion of the German Heroes' Day. I now refer the Court to the final document on Raeder, an account of that speech in March 1939, which is at Page 103 of the document book, in the Document D-653, Exhibit GB-232. The first paragraph reads:

"Throughout Germany celebrations took place on the occasion of Hero Commemoration Day.... These celebrations were combined for the first time with the celebration of the freedom to rearm.... The day's chief event was the traditional ceremony held in the Berlin State Opera House in Unter den Linden."

In the presence of Hitler and representatives of the Party and Armed Forces, General Admiral Raeder made a speech, extracts from which are given below.

I turn to Page 2 of the record, Page 104 of the document book, to about the 15th line:

"National Socialism"—says Raeder—"which originates from the spirit of the German fighting soldier, has been chosen by the German people as its ideology. The German people follow the symbols of its regeneration with as much great love as fanatical passion. The German people has had practical experience of National Socialism and it has not been imposed, as so many helpless critics abroad believe. The Führer has shown his people that in the National Socialist solidarity of the people lies the great and invincible source of strength, whose dynamic power ensures not only peace at home but also enables us to release all the Nation's creative powers."

There follow eulogies of Hitler, and a few sentences below:

"This is the reason for the clear and unsparing summons to fight Bolshevism and international Jewry, the nation-destroying activities of which our own people have sufficiently suffered. Therefore, the alliance with all like-minded nations

who, like Germany, are not willing to allow their strength, dedicated to construction and peaceful work at home, to be disrupted by alien ideologies and by parasites of a foreign race."

Then a few sentences on:

"If later on we instruct in the technical handling of weapons, this task demands that the young soldier should also be taught National Socialist ideology and the problems of life. This part of the task, which becomes for us both a duty of honor and a demand which cannot be refused, can and will be carried out if we stand shoulder to shoulder and in sincere comradeship to the Party and its organizations. . . ."

The next sentence:

"The Armed Forces and the Party thus became more and more united in attitude and spirit."

And then just two sentences on the next page:

"Germany is the protector of all Germans within and beyond our frontiers. The shots fired at Almeria are proof of that."

That refers, of course, to the bombardment of the Spanish town of Almeria, carried out by a German naval squadron on the 31 May 1937 during the course of the Spanish Civil War.

There are further references to the Führer and his leadership, and then a final sentence of the first paragraph of Page 3:

"They all planted into a younger generation the great tradition of death for a holy cause, knowing that with their blood they will lead the way towards the freedom of their dreams."

My submission is that that speech of Raeder's is the final proof of his deep personal involvement in the Nazi conspiracy. There is the mixture of heroics and fatalism that led millions of Germans to slaughter. There are boasts of violence used on the people of Almeria. There is the lip service to peace by a man who planned conquest. "Armed Forces and the Party have become more and more united in attitude and spirit"—there is the authentic Nazi voice. There is the assertion of racialism. Finally, there is the anti-Semitic gesture, Raeder's contribution to the outlook that produced Belsen. Imbued with these ideas he became an active participant on both the political and military level in the Nazi conspiracy to wage wars of aggression and to wage them ruthlessly.

MR. RALPH G. ALBRECHT (Associate Trial Counsel for the United States): May it please the Tribunal, the United States will continue with the presentation, showing the individual responsibility of the Defendant Von Schirach. It will be made by Captain Sprecher.

CAPTAIN DREXEL A. SPRECHER (Assistant Trial Counsel for the United States): May it please the Tribunal, it is my responsibility

to present the individual responsibility of the Defendant Schirach for Crimes against the Peace, War Crimes, and Crimes against Humanity as they concern directly the Common Plan or Conspiracy.

The Prosecution contends that the Defendant Schirach is guilty of having exercised a leading part in the Nazi conspiracy from 1925 until the Nazi downfall.

The conspiratorial acts and the criminality of the Defendant Schirach may be grouped for purposes of convenience into three principal phases: (1) His early support of the conspirators over the period 1925-1929; (2) his leadership and direction of German youth over the period 1929-1945; (3) his leadership of the Reichsgau Vienna as chief representative of the Nazi Party and the Nazi State in Vienna for the period July 1940 to 1945. The presentation will take up each of these principal phases after a brief listing of all the principal positions which Schirach held.

In presenting first a listing of the positions held by Schirach, it is not intended immediately to describe the functions of each of these positions. Insofar as a description of the functions of any particular position is still felt necessary at this stage of the Trial, it will be given later during the discussion of Schirach's conspiratorial acts as Nazi Youth Leader and as Nazi official in Vienna.

For the consideration of the Tribunal, we have submitted a brief on this subject. The document book contains English translations of 29 documents. Although we feel that we have reduced the number of documents to the minimum, the document book is still large. But Schirach's subversion of German youth is a large subject, even apart from any of his other acts. Most of these documents are from German publications, of which the Tribunal can take judicial notice. Therefore, in most cases, it is intended only to paraphrase these documents, unless the Tribunal in particular instances will indicate that they like fuller treatment.

Before passing to the proof I want to express my appreciation, particularly to Major Hartley Murray, Lieutenant Fred Niebergall at my right, and Mr. Norbert Heilpern for their assistance in research, analysis, translation, and organization of these materials.

Schirach agrees he held the following positions. They are found in two affidavits, an affidavit of certificate and one affidavit of report dated December 1945, which is Document 3302-PS, document book, Page 110.

I want to offer that affidavit as Exhibit Number USA-665. The certificate, which I will rely on for only one point, is Document 2973-PS. It is already in evidence as Exhibit Number USA-14.

Turning first to Document 3302-PS: This affidavit shows that Schirach was a member of the Party from 1925 to 1945; that he was a leader of the National Socialist Student League from 1929 to 1931;

that he was leader of the Hitler Youth Organization from 1931 to 1940. In 1931 and 1932 Schirach was Reich Youth Leader on the staff of the SA Supreme Command, where at that time all Nazi youth organizations were centralized. Also, Schirach was Reich Youth Leader of the NSDAP from 1931 to 1940.

In 1932 Schirach became an independent Reich Leader (Reichsleiter), in the Party. Upon acquiring this relatively independent position, he no longer remained on the staff of the SA Supreme Command, since Nazi youth affairs thereafter, with the creation of the Reich Youth Leadership, were directly subordinate to Hitler with Schirach at the helm. We had that kind of condition existing in the Party where, under the Leadership Principle, at the pinnacle you had one man, Schirach, and you no longer had the youth affairs underneath the SA. However, within the SA, Schirach retained the rank and the title of a Gruppenführer throughout the period from 1931 to 1941, and in that year, 1941, he was elevated to the rank of an SA Obergruppenführer, a rank which Schirach continued to hold in the SA until the collapse.

Schirach was Reich Leader of Youth Education in the NSDAP from 1932 until the collapse. In other words, from before the Nazis came to state power until the final downfall, this defendant held the high position of a Reichsleiter, a Reich Leader, inside the Party.

Now, in addition to these positions in the Party, Schirach held the following positions in the Nazi State:

Reich Youth Leader, 1933 to 1940; Reich governor (Reichsstatthalter) of the Reichsgau Vienna, 1940 to 1945; Reich Defense Commissioner of Vienna, 1940 to 1945.

Now, although Schirach gave up some of his positions with respect to the leadership of German youth in 1940 when he accepted these positions in Vienna, he still continued to hold after that time the Party position of Reich Leader for Youth Education in the NSDAP. Moreover, he was given a very special position: Deputy to the Führer for the Inspection of the Hitler Youth, the organization which he, of course, had led until 1940. He continued in these last two positions until the downfall.

The certificate, Document 2973-PS, the only thing I rely on there in this particular presentation, is to show that Schirach was a member of the Reichstag from 1932 to 1945.

We next take up acts showing that Schirach actively promoted the NSDAP and its affiliated youth organizations before the Nazis seized power. Schirach was an intimate and a servile follower of Hitler from the year 1925. In that year, when he was only 18 years old, Schirach joined the Nazi conspirators by becoming a member of the Party. Upon special request of Hitler, he went to Munich to study Party affairs. He became active in converting students to

National Socialism. I am paraphrasing there, Your Honors, from Paragraph 2 of Schirach's own affidavit, Document 3302-PS, Exhibit Number USA-665, found at Page 110 of the document book.

Now, this was the start of conspiratorial activities which Schirach thereafter continued for two decades in a spirit of unbending loyalty to Hitler and to the principles of National Socialism. Hitler's early personal attentions to this defendant bore fruit for the conspirators, and we find Schirach's stature in the Party circles rapidly growing through these early years.

In 1929 Schirach was made national leader of the entire National Socialist German Students League. He retained this position for 2 years until 1931. Document 3464-PS, document book, Page 121, is an extract from the 1936 edition of the Party manual, Exhibit Number USA-666, which I would like to offer in evidence. This makes it clear that the purpose of the Nazi Students League was the ideological and political conversion of students in universities and technical schools to National Socialism.

After 1931 Schirach devoted his full time to Party work. Schirach was elected a Nazi member of the Reichstag in 1932, and therefore he played his part in the unparliamentary conduct of the Nazi Reichstag members during the last months of the existence of the Reichstag as an independent instrument of government.

Some of the best evidence concerning Schirach's support of the conspiracy in its early stages comes from Schirach's own words in his book *The Hitler Youth.* Excerpts from this book are found in Document Number 1458-PS, document book, Page 1. It is offered in evidence as Exhibit Number USA-667. Now, since this book, Your Honors, covers many years and many topics, I shall be required to refer to it occasionally later on.

An example of Schirach's servile loyalty to Hitler during the early years is found at Page 17 of this book, Page 12 of your document book. There he writes of his early years of Party activity as follows:

> "We were not yet able to account for our conception in detail. We simply believed. And when Hitler's book *Mein Kampf* was published, it was our bible, which we almost learned by heart in order to answer the questions of the doubters and superior critics. Almost everyone who today is leading youth in a responsible position joined us in those years."

Before 1933 Schirach moved throughout Germany, leading demonstrations, summoning German youth to membership in the Hitler Youth. When the Hitler Youth and the wearing of its uniform were forbidden by law, Schirach continued his activities by illegal means. Of this period he himself writes, at Page 26 of his book on *The Hitler Youth,* Pages 16 and 17 of your document book, as follows:

"At this time the HJ (the Hitler Jugend) gained its best human material. Whoever came to us during this illegal time, boy or girl, risked everything.... With pistols in our pockets we drove through the Ruhr district while stones came flying after us. We jumped every time we heard a bell ring, because we lived in constant fear of arrests and expected our houses to be searched."

At Page 27 of the same book, Page 18 of Your Honors' document book, Schirach indicates that in the early intra-Party fight between Hitler and Strasser, Schirach clung steadfastly to the Hitler clique, and then, in discussing Strasser, he exchanged his confidence only with Hitler and the Defendant Streicher. It is hardly necessary to argue that such an intimate of the Führer, himself, was advised from the beginning of the general purposes, plans, and methods of the conspiracy.

As an interesting sidelight, I believe a number of those conferences, you will note, took place in Schirach's apartment in Munich, and that Hitler used to come there occasionally.

Schirach was the leading Nazi conspirator in destroying all independent youth organizations and in building the Nazi youth movement. In connection with this point, the attention of the Tribunal is invited to the brief of the United States Chief of Counsel entitled "The Reshaping of Education, Training of Youth," which was written for the United States Chief of Counsel by Major Hartley Murray, and to the documents cited therein under the section headed "b." "The Nazi conspirators supplemented the school system by training youth through the Hitler Jugend." These documents were offered in evidence in Document Book D in the earlier phase of this Trial. The attention of the Tribunal is also called to the motion picture *The Nazi Plan,* which was shown before the Tribunal on the 11th of December, insofar as that film involved the Defendant Schirach and his Hitler Youth organization. Occasions when Schirach's activities are shown in this film are noted in Document Number 3054-PS, the index and the guide to this film, which is already in evidence as Exhibit Number USA-167.

It was the task of Schirach to perpetuate the Nazi regime through generations by poisoning the minds of youth with Nazi ideology and preparing youth for aggressive war. This poisoning will long outlive the defendant. Indeed, one of the principal purposes of this exposure must be to bring to those German youths who survived the Nazi-created catastrophe a true picture of this man whom Nazi propaganda presented as a great youth hero; a man against whom the living breath of free criticism and the truth itself could make no answer before German youth or before the German people, for more than 10 years.

Again, from Schirach's own hand in his book, *The Hitler Youth,* we have crystal-clear evidence concerning the methods and the tactics employed by this defendant in his destruction of independent youth organizations and their incorporation into the Hitler Youth. At Page 32, Pages 19 and 20 of Your Honors' document book, Schirach states that in 1933 the new Cabinet ministers were too overburdened to solve the youth question by their own initiative; that therefore he, Schirach, then leader of the Hitler Youth, commissioned one of his confederates to lead 50 members of the Berlin Hitler Youth in a surprise raid on the Reich Committee of German Youth Organizations. This raid resulted in destroying the Reich Committee and its absorption within the Hitler Youth. This raid was closely followed by a second surprise raid of like success upon the Youth Hostels Organization, Page 33, *The Hitler Youth,* found at Pages 20 and 21 of the document book.

Now, after these successful showings of force and terror, Schirach's star climbed higher. He was appointed Youth Leader of the German Reich in June 1931 in a solemn ceremony before Hitler. Concerning his next steps, Schirach writes at Pages 35 and 36 of his book, Page 22 of the document book, as follows:

> "The first thing I did was to dissolve the Greater German League. Since I headed all German youth organizations and I had the right to decide on their leadership, I did not hesitate for a moment to take this step which was for the Hitler Youth the elimination of an unbearable state of affairs."

Schirach accomplished the dissolution and destruction of most youth organizations by orders which he issued and signed as Youth Leader of the German Reich. This is shown by the order contained in Document Number 2229-PS, your document book, Page 65, which is offered in evidence as Exhibit Number USA-668.

By this one order of Schirach nine youth organizations were dissolved, including the Boy Scout movement.

The Protestant and Catholic youth organizations were the last to be destroyed and absorbed by the Hitler Youth. Schirach accomplished the absorption of the Protestant youth organization by agreement with the Hitler-appointed Reich Bishop Ludwig Müller, Page 38 of *The Hitler Youth,* Page 24 of the document book. Schirach's objective in forcing all German youth into the Hitler Youth was finally accomplished in December 1936 by the basic law on the Hitler Youth. Document Number 1392-PS is a decree, 1936, *Reichsgesetzblatt,* Part I, Page 993, of which, of course, the Tribunal may take judicial notice. This law declared in part, and Your Honors, I read from this because it shows so clearly the nature of

what was to happen and what was already happening to German youth under Schirach.

THE PRESIDENT: Is it set out in the document book?

CAPT. SPRECHER: Yes, Sir.

THE PRESIDENT: What page?

CAPT. SPRECHER: It is Document Number 1392-PS. It is at Page 6 of your document book:

> "The future of the German nation depends on its youth, and German youth will have to be prepared for its future duties.... All of the German youth in the Reich is organized within the Hitler Youth.... The German youth, besides being reared within the family and school, shall be educated physically, intellectually, and morally in the spirit of National Socialism to serve the people and the community through the Hitler Youth.... The task of educating the German youth through the Hitler Youth is being entrusted to the Reich Leader of German Youth in the NSDAP...."

The first executive order on this basic law concerning the Hitler Youth was issued on the 25th of March 1939. If you refer to Page 40 of your document book, this decree, 1939, *Reichsgesetzblatt,* Part I, Page 709, among other points confirms the exclusive nature of Schirach's responsibility concerning German youth. I will quote only one sentence:

> "The Youth Leader of the German Reich is solely competent for all missions of the physical, ideological, and moral education of the entire German youth outside home and school."

THE PRESIDENT: Captain Sprecher, I think you have told us enough now to satisfy us that Von Schirach was in charge of the ideological education of German youth and completely in charge of it.

CAPT. SPRECHER: Yes, Sir.

THE PRESIDENT: And we don't desire to hear any more of it.

CAPT. SPRECHER: I understand.

In exercising his far-reaching control over German youth, Schirach naturally relied on the common techniques of the Nazi conspirators, including the Leadership Principle, the nature of which has already been established before this Tribunal. The Tribunal will find a galling glorification and explanation of the Leadership Principle as it was applied to German youth, in Schirach's book, *The Hitler Youth,* at Page 68, translated at Page 32 of the document book. I won't read from that.

In his affidavit, Document Number 3302-PS, Paragraph 5, Schirach states, "It was my task to educate the youth in the aims,

ideology, and directives of the NSDAP, and beyond this to direct and to shape them."

Naturally, Schirach established and directed an elaborate propaganda apparatus to accomplish a thorough-going poisoning of the minds of German youth. Document Number 3349-PS, your document book Page 114, is offered in evidence as Exhibit Number USA-666.

This is an excerpt from Pages 452 and 453 of the 1936 edition of the Party manual. This document will show that the Reich Youth Leadership (Reichsjugendführung) of the NSDAP prepared and published numerous periodicals ranging from a daily press service to monthly magazines. This document also shows that the propaganda office of the Hitler Youth maintained, through liaison agents, a political and ideological connection with the propaganda office of the NSDAP and with the Propaganda Ministry, both of which, of course, were headed by the conspirator Goebbels.

Schirach shares with the conspirator Dr. Robert Ley, Reich Organizationsleiter of the NSDAP, the responsibility for the establishment and general administration of the Adolf Hitler Schools. This is shown by a joint statement of Ley and Schirach in the year 1937, which is found in the document book at Page 100. It is our Document 2653-PS, offered in evidence as Exhibit Number USA-669. This document shows that these Adolf Hitler Schools were open free of charge to outstanding and proved members of the Young Folk, the junior section of the Hitler Youth organization. It further shows that the object of these schools was the building of youthful leadership for the Nazi Party and the Nazi State apparatus.

Schirach extended his education of German Youth into the field of law and the legal profession even though these fields were principally under the control of the Defendant Frank. Proof is found in Document Number 3459-PS, Page 120 of the document book. This is a one-page extract from an account of the Congress of German Law in 1939. It is offered as Exhibit Number USA-670. This document shows that beyond purely technical education in law it was considered by the conspirators to be the task of the Party to exercise influence upon the ideological conceptions of the Young Law Guardians League. This league was a junior organization of the National Socialist Law Guardians League, a Nazi-controlled organization of lawyers.

Now, at this Congress to which the document refers, an official of the youth law guardians declared that ignorance of the simplest legal principles could best be fought within the Hitler Youth and that, therefore, the legal education program of the Hitler Youth was to receive the broadest support.

Obergebietsführer Arthur Axmann, the subordinate of Schirach at that time and who in 1940 was to succeed him as leader of the Hitler Youth, was at that time, namely, May 1939, appointed the chairman of a youth legal committee for the establishment of the Youth Law. He was appointed by the Defendant Frank.

THE PRESIDENT: Captain Sprecher, I don't think I made it quite clear that the Tribunal is not really interested in these details by which the Defendant Von Schirach acquired his power over the German Youth. You have told us sufficient to establish in our minds, so far at any rate, that he managed to get absolute command over the German youth. The only thing that seems to me to be material, at the present stage, is whether or not you can show us any direct evidence that the Defendant Schirach was a party to the aggressive aims of the Reich leaders, or to any War Crimes or to any Crimes against Humanity. Unless you can show us that, your address to us is really not useful to us at this stage.

CAPT. SPRECHER: I plan to take up directly, Your Honor, the question of the militarization of youth. I did want to make one reference at this point to the relation of the Hitler Youth to the League for Germans Abroad, if that is satisfactory to Your Honor.

THE PRESIDENT: Well, that may bear on the aggressive aims of the Reich leaders.

CAPT. SPRECHER: Schirach extended the influence of the Hitler Youth beyond the borders of Germany by means of co-operation between the Hitler Youth and the League for Germans Abroad, the VDA. This is proved by an agreement made in 1933 between Schirach and leaders of the VDA which is contained in Document L-360(h), document book Page 3. This is offered in evidence as Exhibit Number USA-671.

Now, Schirach discusses in his book, *The Hitler Youth,* under the chapter heading, "Work Abroad"—that is Chapter 4 of the book, Pages 34 to 38 of the document book—some of the connections of the Hitler Youth with such Nazi ideas as Lebensraum, colonial policy as an ideological weapon.

I won't read from that, since it also covers to a certain extent . . .

THE PRESIDENT: Did it talk about Lebensraum?

CAPT. SPRECHER: It actually used the word Lebensraum. At Page 36 of the document book there is reference made to the Ostraum, space in the East . . .

THE PRESIDENT: I thought the document you were dealing with was L-360 on Page 3.

CAPT. SPRECHER: I am sorry. I had gone on from there, to speak about Schirach's book, Document 1458-PS, and I had mentioned that at Pages 34 to 38 of the document book there were references concerning the Nazi ideas of colonial policy and Lebensraum, and that this book by Schirach indicated that the Hitler Youth was charged with spreading those ideas.

He uses the word "Ostraum" in speaking of space in the East, and he discusses German youth organizations abroad and the German schools in these countries. And then I wish particularly to point out on Page 37 the following sentence:

> "It will be taken into consideration concerning this schooling that the guiding line of German population policy which aims at the utilization of the space in the East will not be violated."

Now, the conspirators devoted a great deal of energy to the perpetuation of their scheme of things by selecting and training successors for Nazi leadership, selecting and training and acquiring active Nazis for the rank and file of the NSDAP and its affiliated organizations, including the SA and the SS which are alleged here to be criminal organizations.

A number of orders issued by the Party Chancellery under the heading, "Successor Problems," show the dominant part assumed by Schirach and his Hitler Youth in this field. Our Document Number 3348-PS, "Selections from Volume I of the Decrees, Regulations, and Announcements of the Party Chancellery," already marked in evidence as Exhibit Number USA-410, contains some of these orders, which I won't take the time to read. But they are all contained on one page, Page 113, of your document book.

Only Hitler Youth members who distinguished themselves were to be admitted to the Party. Nazi leaders were directed to absorb full-time Hitler Youth leaders into their staffs so as to offer them practical experience and thus secure necessary successors for the Leadership Corps which is also alleged as a criminal organization. This pivotal and central function of the Hitler Youth in the domination of German life by the Party is also shown at Pages 80 and 81 of the 1938 Party manual, Exhibit Number USA-430, found at Page 74 of the document book.

THE PRESIDENT: That last page, Page 113, does that refer to any of the matters to which I drew your attention? It is simply the organization of the youth; it has nothing to do with any criminal aims.

CAPT. SPRECHER: Your Honor, it certainly is the contention of the Prosecution that any man who took an active part in furnishing for these criminal organizations young members committed a crime.

THE PRESIDENT: I quite understand that, and that is why I told you that we were satisfied that so far you had shown that he had acquired absolute control over and was the leader of the German youth. The only thing we want to hear about at this stage is whether he was a party to the schemes for aggressive war, to War Crimes, or to Crimes against Humanity. That is what we want to hear, and we don't want to hear anything else.

CAPT. SPRECHER: Your Honors, may I pass, then, to the connection of Hitler Youth to the SS. Document 2396-PS, which is found at Page 69 of the document book and which is offered as Exhibit Number USA-673, has a quotation in it concerning the Streifendienst of the Hitler Youth; the Streifendienst being the patrol service, a type of self-police organization of the Hitler Youth. The quotation which I intend to read will indicate how this organization became the principal supplier of the SS.

Are Your Honors interested in having me read that quotation concerning the Hitler Youth as the main source of the SS?

THE PRESIDENT: Yes, perhaps; I haven't read it.

CAPT. SPRECHER: This document is an agreement between Schirach and Himmler. It was concluded in October 1938. It bears, I think, partial quoting:

"Organization of the Streifendienst.

"1. Since the Streifendienst in the Hitler Youth has to perform tasks similar to those which the SS perform for the whole movement, it is organized as a special unit for the purpose of securing recruits for the General SS. However, as much as possible, recruits for the SS Special Troops, for the SS Death's Head Units, and for the officer-candidate schools, should also be taken from these formations."

I am skipping down now to 4a, which is underlined in red in your book:

"The selection of Streifendienst members is made according to the principles of racial selection of the Schutzstaffel. The competent officials of the SS, primarily unit leaders, race authorities, and SS physicians, will be consulted for the admission tests."

Skipping to 5:

"To insure from the beginning a good understanding between Reich Youth Leadership and Reich SS leadership, a liaison officer will be ordered from the Reich Youth Leadership to the SS Main Office starting 1 October 1938. The appointment of other leaders to the higher SS sections is a subject for a future agreement."

Then, going down to what I think is the most striking quotation, Your Honor, 6:

> "After the organization is completed, the SS takes its replacement primarily from these Streifendienst members. Admission of youths of German blood who are not members of the Hitler Youth is then possible only after information and advice of the competent Bannführer."

Now, the Bannführer referred to there was the local leader of the Hitler Jugend; and without his consent no one could go into the SS in the future after that agreement was made, which was in October 1938.

Now, the second agreement which Schirach made with Himmler was made in December 1938. It is found in our document book, Number 2567-PS, Page 98. It is offered in evidence as Exhibit Number USA-674. It states that the Farm Service of the Hitler Youth "is, according to education and aim, particularly well suited as a recruiting agency for the SS, General SS, and the armed section of the SS, SS Special Troops, and SS Death's Head battalions."

The agreement concludes by stating that Farm Service members of the Hitler Youth who pass the SS admission tests will be taken over by the SS immediately after leaving the Hitler Youth Farm Service.

I might point out to Your Honors that this meant that after that time any Hitler Youth member who was in the Farm Service was obliged to go into the SS.

And now, to come directly to the point you have been inquiring about, Your Honor:

Throughout the 6 years of Nazi political control over Germany before the launching of aggressive war, Schirach was actively engaged in militarizing German youth. From the beginning, the Hitler Youth was set up along military lines with uniforms, ranks and titles. It was regimented and led in military fashion under the Leadership Principle.

If Your Honors will take any edition whatsoever of the *Organization Book,* the Party manual, and turn to the tables, beginning with Table 54, and leaf through the book, you will see the very striking insignia of the Hitler Youth and how much it compares to what the normal military insignia were. You will further notice that one of the most prominent insignia is an "S" of the same type that the Nazis used with respect to the SS. You will notice that part of the uniform was a long knife.

THE PRESIDENT: Isn't that all a part of what they are pleased to call the Nazi ideology? I mean, the Führer Principle, military training?

CAPT. SPRECHER: There is a relation between all of these things, perhaps, and the Leadership Principle, because the Leadership Principle dominated absolutely every aspect of German life. However, Your Honors, I suggest that showing to you, in this graphic means, the similarity between the uniform of the Hitler Youth and military uniforms has some bearing upon the preparation for aggressive wars, about which I am further to speak in just a moment.

Now, Document 2654-PS, found at Page 102 of your document book, is a whole book given over to just this question of the organization and the insignia of the Hitler Youth.

The Tribunal will see how the Hitler Youth was divided into branches or divisions which were very similar to military divisions.

That document is offered as Exhibit Number USA-675. I will refer no further to it.

Now, in a speech in February 1938, when the conspirators had already dropped some of the camouflage which surrounded their earlier military preparations for the wars which we have recently suffered, Hitler discussed the military training of the Hitler Youth in the *Völkischer Beobachter* of the 21st of February 1938. This is our Document 2454-PS, found at Page 97 of the document book. It is offered as Exhibit Number USA-676.

Hitler there said that thousands of German boys had received specialized training through the Hitler Youth in naval, aviation, and motorized groups and that over 7,000 instructors had trained more than 1 million Hitler Youth members in rifle shooting. That was February 1938, shortly before the Anschluss. Note the progress of military training within the Hitler Youth between then and August 1939, just 1 month before the invasion of Poland.

At that time the Defendant Schirach and the Defendant Keitel, as Chief of the High Command, entered into another one of those informative agreements, which many of these defendants liked to make among themselves. It is Document Number 2398-PS, your document book Page 72. It is offered as Exhibit Number USA-677. It is taken from *Das Archiv* which, in introducing the actual agreement, declared that this agreement was "the result of close co-operation" between Schirach and Keitel. The agreement itself states, in part:

> "While it is exclusively the task of the Hitler Youth to attend to the training of their units in this direction, it is suitable, in the sense of a uniformed training corresponding to the demands of the Wehrmacht, to support the leadership of the Hitler Youth for their responsible task as trainers and educators in all fields of training for defense by special courses."

And then, skipping down towards the end, you will note this quotation within the agreement: "A great number of courses are in progress."

Your Honor, if I may take about 5 minutes, I can finish this one section on the aggressive war phase.

THE PRESIDENT: Very well.

CAPT. SPRECHER: Whereas Hitler, in February 1938, mentioned that 7,000 Hitler Youth leaders were engaged in training German youngsters in rifle shooting, Schirach and Keitel, in their agreement of August 1939, note the following:

> "... 30,000 Hitler Youth leaders are already being trained annually in field service. The agreement with the Wehrmacht gives the possibility of roughly doubling that number. The billeting and messing of the Hitler Youth leaders is done, according to the regulations for execution already published, in the barracks, drill grounds, *et cetera,* of the Wehrmacht, at a daily cost of 25 Pfennig."

Just as Schirach dealt with the head of the SS in obtaining zealous recruits for organized banditry and the commission of atrocities, so also he dealt with the head of the Wehrmacht in furnishing young men as human grist for the mill of aggressive war.

The training of German youths runs through the Nazi conspiracy as an important central thread. It is one of the manifestations of Nazism which has shocked the entire civilized world. The principal responsibility for the planning and execution of the Nazi Youth policy falls upon this defendant.

I wish to take merely one sentence from his own affidavit, Paragraph 5, Document Number 3302-PS, so that there can be no doubt before this Tribunal or before the world, indeed, as to this defendant's own feeling of responsibility: "I feel myself responsible for the policy of the youth movement in the Party and later within the Reich." I underline the phrase *"I feel myself responsible."*

Your Honor, that is a convenient breaking point before coming to a discussion of Schirach's connection to War Crimes and Crimes against Humanity.

THE PRESIDENT: Very well.

[The Tribunal adjourned until 16 January 1946 at 1000 hours.]

THIRTY-FIFTH DAY

Wednesday, 16 January 1946

Morning Session

CAPT. SPRECHER: May it please the Tribunal, I now pass to activities which involve Schirach in the commission of Crimes against Humanity as they bear directly on Count One. The presentation of all specific acts will deal with the Reichsgau Vienna; but first allow me to refer back to two important points in the previous proof, which will show that Schirach bears responsibility for War Crimes and Crimes against Humanity which bring in the whole of Europe. Through his agreements with Himmler he provided, through the Hitler Youth, many if not most of the SS men who administered, in the main, the concentration camps and whose War Crimes and Crimes against Humanity throughout Europe generally are notorious.

Nor should we pass to further specific acts of Schirach without mentioning one more thing: that he cannot escape responsibility for implanting in youth the Nazi ideology generally, with its tenets of a master race, sub-human peoples, and Lebensraum and world domination. For such notions were the psychological prerequisites for the instigation and for the tolerance of the atrocities which zealous Nazis committed throughout Germany and the occupied countries.

To present Schirach's responsibilities for crimes committed within the Reichsgau Vienna, where Schirach was Gau leader and Reich governor from July 1940 until the downfall, the general basic functions of these two offices must be held in mind.

The first document I refer to is Document Number 1893-PS. This is an extract from the Party manual of 1943 and therefore catches Schirach in midstream in his activities in the Reichsgau Vienna. That is Page 42 of the document book, and Pages 70, 71, 75, 98, 136, and 140b of the Party manual, extracts from each of those pages appearing in your document book.

The following highlights concerning the Gau leader's functions will appear, and I propose only to paraphrase. Since Your Honor may take judicial notice of the Party manual, you may check at your leisure unless you wish me to read from any one of these specific orders. These orders make it appear that the Gau leader was the highest representative of Hitler in his Gau, that he was the bearer of sovereignty—the top Hoheitsträger—and that he had sovereign

political rights. Beyond that, he was responsible for the entire political situation in his Gau. He could call—and we believe this is important—he could call upon SA and SS leaders as "needed in the execution of a political mission." Beyond that he was obliged to meet at least once a month with the leaders of the affiliated Party organizations within his Gau, and this, of course, included the SS.

Now, the position of the Reich Governor in Vienna is somewhat special. After the Anschluss the State of Austria was abolished, and Austria was divided into seven Reich Gaue. The most important of these Gaue was the Reichsgau Vienna, of which Schirach was Governor. Reference to any statistical manual of the Reich at this time will establish that at that time Vienna had a population of over 2 million people. Therefore it was certainly one of the principal cities of the Reich. The Tribunal is asked to take judicial notice of the decree, 1939 *Reichsgesetzblatt*, Part I, Page 777, our Document Number 3301-PS, found at Page 107 of the document book. This is the basic law on the administrative reorganization of Austria. It was enacted in April 1939, a little more than a year before Schirach became Governor. This law shows that Schirach, as Governor, was the lieutenant of the head of the German State, Hitler; that he could issue decrees and orders within the limitations set by the supreme Reich authorities; that he was especially under the administrative supervision of the Defendant Frick, Reich Minister of the Interior; and that he was also the first mayor of the city of Vienna. For the same period that Schirach was Gau leader and Reich Governor of Vienna, he was also Reich Defense Commissioner of Vienna; and after 1940, of course, the Reich was engaged in war.

Because of his far-reaching responsibilities and authority in these positions, the Prosecution contends that Schirach must be held guilty, specifically, of all the crimes of the Nazi conspirators in the Reichsgau Vienna, on the ground that he either initiated, approved, executed, or abetted these crimes. Specific examples follow which, in fact, demonstrate that Schirach was actively and personally engaged in Nazi crimes, and that, when he became boastful—a characteristic never lacking in most of these defendants—he himself admitted his own involvement in acts which are crimes within the competence of this Tribunal.

I come first to slave labor.

The slave-labor program naturally played its part in staffing the industries of as large and important a city as Vienna. The general nature of this program and the crimes flowing therefrom have been in part set before you by Mr. Dodd. The Soviet prosecutors will present further acts later on. Our Document Number 3352-PS, found at Page 116 of your document book, which I would like to offer as Exhibit USA-206, gives extracts from a

number of orders of the Party chancellery. Each of these orders from which the extracts have been taken bear on the Gau leader's responsibility for manpower placement and utilization. They prove quite simply and in unmistakable language that the Gau leaders under the direction of the experienced old Gau leader Sauckel, who was plenipotentiary for manpower, became the supreme integrating and co-ordinating agents of the Nazi conspirators in the entire manpower program. At Page 116 of your document book—Page 508 of the original volume of orders—the Defendant Göring is shown to have agreed, as leader of the Four Year Plan, to Sauckel's suggestion that the Gau leaders be utilized to assure the highest efficiency in manpower. At Page 117 of your document book—Page 511 of the orders of the Party chancellery—Sauckel in July 1942 makes the Gau leaders his special plenipotentiaries for manpower within their Gaue, with the duty of establishing a harmonious co-operation of all interests concerned. In effect the Gau leader became the supreme arbitrator for all the conflicting interests that exist during wartime with respect to claims upon manpower. Under this same order the regional labor offices and their staffs were "directed to be at the disposal of the Gau leaders for information and advice and to fulfill the suggestions and demands of the Gau leader for the purpose of improvements in manpower. . . ." At Pages 118 and 119 of your document book—Page 567 of the Party chancellery orders—the Defendant Sauckel ordered that his special plenipotentiaries, the Gau leaders, familiarize themselves with the general regulations on Eastern Workers. He stated that his immediate objective was "to prevent politically inept factory heads giving too much consideration to the care of Eastern Workers and thereby cause justified annoyance among the German workers."

We submit to the Tribunal that if Schirach as Gau leader was required to concern himself in such manpower details as concern over the alleged annoyance of German workers for the consideration given Eastern Workers, it is unnecessary to press further into the detailed workings of the manpower program to establish Schirach's connection with, and responsibility for, the slave-labor program in the Reichsgau Vienna.

I now pass to the persecution of the churches.

The elimination of the religious youth organizations while Schirach was chief Nazi youth leader has already been noted. In March 1941 two letters, one from the Defendant Bormann, the other from the conspirator Hans Lammers. . .

THE PRESIDENT: Captain Sprecher, have you any other evidence which connects Von Schirach with the problem of manpower?

CAPT. SPRECHER: I had planned on presenting nothing further, Your Honor. I felt that in view of the fact that our Soviet colleagues are going further with the details of the manpower program, particularly in the East, the main objective under Count One should merely be to show the general responsibility of the Defendant Schirach for the slave-labor program, and the question of specific acts will have to be taken from the other proof in the Record, which will come into the Record later.

THE PRESIDENT: Very well.

CAPT. SPRECHER: There is just one further point: When I come to the treatment of the Jews in a few minutes, there will be one or two specific examples.

THE PRESIDENT: You are now going to deal with the persecution of churches, is that right?

CAPT. SPRECHER: Yes, Sir.

Now, the Tribunal is referred to Document R-146, at Page 5 of the document book. This is offered as Exhibit USA-678.

I am a little in doubt, Your Honors, as to whether I should read all this document, in view of our common anxiousness to pass rapidly on; but perhaps I may paraphrase it, and if you are not satisfied I will read it.

These documents establish clearly that during a visit by Hitler to Vienna, Schirach and two other officials brought a complaint before the Führer that the confiscations of Church property in Austria, made on various pretexts, should be made in favor of the Gaue rather than of the Reich. Later the Führer decided the issue in favor of the position which had been taken by Schirach, namely, in favor of the Gau. I use this merely to connect Schirach with the persecution of the churches, concerning which there has been a great deal of evidence before this time.

THE TRIBUNAL (Mr. Biddle): None of it is in evidence yet. You have not put anything in evidence. We cannot take judicial notice of something unless you ask us to.

CAPT. SPRECHER: Your ruling is that this would not be in evidence unless I read it?

THE TRIBUNAL (Mr. Biddle): I am not making any ruling; I was merely pointing out to you that we have nothing in evidence on the last document.

CAPT. SPRECHER: I think, under the circumstances, I had better read this document:

"Munich, 20 March 1941, Brown House, Personal-Secret.

"To: All Gau leaders. Subject: Sequestration of Church properties (Monastery property, *et cetera).*

"Recently, valuable church properties have had to be sequestered on a large scale, especially in Austria; according to reports of the Gauleiter to the Führer, these sequestrations were often because of violations of ordinances relating to war economy (for example, hoarding of foodstuffs of various kinds, textiles, leather goods, *et cetera).* In other cases they were for violations of the law relating to subversive acts against the State and in some cases because of illegal possession of arms. Obviously no compensation is to be paid to the churches for sequestrations made for the above-mentioned reasons.

"With regard to further sequestrations, several Austrian Gau leaders, on the occasion of the Führer's last visit to Vienna, attempted to clarify the question of who should acquire such sequestered properties. Please take note of the Führer's decision, as contained in the letter written by Reich Minister Dr. Lammers to the Reich Minister of the Interior, dated 14 March 1941. I enclose copy of extracts of the same." —Signed—"M. Bormann."

I had offered that document as Exhibit USA-678. Do you still wish me to read the enclosure that went with it?

THE TRIBUNAL (Mr. Biddle): I don't wish you to read anything; I was simply pointing out that, as you had not read it, it was not in evidence.

CAPT. SPRECHER: In that event I will continue, Your Honor. The copy reads as follows:

"Berlin, 14 March 1941; The Reich Minister and Chief of the Reich Chancellery.

"To the Reich Minister of the Interior. Subject: Draft of an ordinance supplementing the provisions on confiscation of property of enemies of the People and State.

"The Reichsstatthalter and Gauleiter Von Schirach, Dr. Jury and Eigruber complained recently to the Führer that the Reich Minister of Finance still maintains the point of view that confiscation of property of enemies of the People and State should be made in favor of the Reich and not in favor of the Reich Gaue. Consequently the Führer has informed me that he desires the confiscation of such properties to be effected in favor of the Reich Gau in whose area the confiscated property is situated, and not in favor of the Reich . . . ."

THE PRESIDENT: You need not read any more of it.

CAPT. SPRECHER: I pass over now to the Jewish persecution.

The Prosecution submits, finally, that Schirach authorized, directed, and participated in anti-Semitic measures. Of course, the

whole ideology and teaching of the Hitler Youth was predicated upon the Nazi racial myth. Before the war, Schirach addressed a meeting of the National Socialist German Students' League, the organization he headed from 1929 to 1931. Document 2441-PS is offered as Exhibit USA-679, an affidavit by Gregor Ziemer. I wish to read merely from the bottom of Page 95 of the document book to the end of the first paragraph at the top of Page 96 of the document book. The deponent Ziemer is referring to a meeting at Heidelberg, Germany, which he personally attended some time before the war, at which Baldur von Schirach addressed the Students' League, which he himself had at one time led. . . .

THE PRESIDENT: What is this document?

CAPT. SPRECHER: It is an affidavit of Gregor Ziemer:

"He"—meaning Schirach—"declared that the most important phase of German university life in the Third Reich was the program of the NSDSTB. He extolled various activities of the League. He reminded the boys of the service they had rendered during the Jewish purge. Dramatically he pointed across the river to the old university town of Heidelberg where several burnt-out synagogues were mute witnesses of the efficiency of Heidelberg students. These skeleton buildings would remain there for centuries as inspiration for future students, as warning to enemies of the State."

To attempt to visualize the true extent of the fiendish treatment of Jews under Schirach, we must look to his activities in the Reichsgau Vienna and to the activities of his assistants, the SS and the Gestapo, in Vienna.

Document Number 1948, Page 63 of your document book, is offered as Exhibit USA-680. You will note it is on the stationery of the last Governor of Vienna.

THE PRESIDENT: Captain Sprecher, I have been reading on in this Document 2441-PS, on Page 96 of the document book. It seems to me you ought to read the next three paragraphs on Page 96 from the place where you left off.

CAPT. SPRECHER: Yes, Sir.

THE PRESIDENT: The second, third, and fourth paragraphs.

CAPT. SPRECHER: "Even as old Heidelberg Castle was evidence that Old Germany had been too weak to resist the invading Frenchmen who destroyed it, so the black remains of the synagogues would be a perpetual monument reminding coming generations of the strength of New Germany.

"He reminded the students that there were still countries which squandered their time and energy with books and

wasteful discussions about abstract topics of philosophy and metaphysics. Those days were over. New Germany was a land of action. The other countries were sound asleep.

"But he was in favor of letting them sleep. The more soundly they slumbered, the better opportunity for the men of the Third Reich to prepare for more action. The day would come when German students of Heidelberg would take their places side by side with legions of other students to conquer the world for the ideology of Nazism."

I was about to refer, Your Honors, to Document Number 1948-PS, which is found at Page 63 of your document book, and which I offer as Exhibit USA-680. This, you will note, is on the stationery of the Reich Governor of Vienna, the Reichsstatthalter in Vienna.

"...7 November 1940.

"Subject: Compulsory labor of able-bodied Jews.

"1. Notice: On 5 November 1940 telephone conversation with Colonel"—Standartenführer—"Huber of the Gestapo. The Gestapo has received secret directions from the Reich Security Main Office (RSHA) as to how able-bodied Jews should be drafted for compulsory labor service. Investigations are being made at present by the Gestapo to find out how many able-bodied Jews are still available, in order to make plans for the contemplated mass projects. It is assumed that there are not many more Jews available. If some should still be available, however, the Gestapo has no scruples to use the Jews even for clearing away the destroyed synagogues.

"SS Standartenführer Huber will make a report personally to the Regierungspräsident in this matter.

"I have reported to the Regierungspräsident accordingly. The matter should be kept further in mind."

The signature is by Dr. Fischer.

I want to call the Court's attention to the significance of the title Regierungspräsident. The SS Colonel, you will note, was to report to the Regierungspräsident. If you will refer back again to the decree which set up the Reichsgau Vienna, 1939 *Reichsgesetzblatt*, Part I, Page 777 (Document 3301-PS), you will find that the Regierungspräsident was Schirach's personal representative within the governmental administration of Vienna.

Now, it seems to us that this Document Number 1948-PS, which was signed by Fischer, concerning compulsory labor of able-bodied Jews, answers the argument that persons of the rank of Gauleiter were ignorant of the atrocities of the Gestapo and the SS in their own locality. It shows further that even the assistants of the Gau leaders were informed of the details of the persecution projects which were afoot at the time.

Schirach also had concern for, and knowledge of, the housing shortage in Vienna, which was alleviated for some members of the alleged master race who succeeded to the houses of the luckless Jews who were moved into oblivion in Poland.

On December 3, 1940, the conspirator Lammers wrote a letter to Schirach. It is our Document 1950-PS, Page 64 of your document book, and it is offered in evidence as Exhibit USA-681. The letter is very short:

"Berlin, 3 December 1940..."

It is on the stationery of the Reich Minister and Chief of the Reich Chancellery, and it is marked "secret":

"To the Reich Governor in Vienna, Gauleiter Von Schirach:

"As Reichsleiter Bormann informs me, the Führer has decided, after receipt of one of the reports made by you, that the 60,000 Jews still residing in the Reichsgau Vienna will be deported most rapidly"—that is, still during the war—"to the Government General, because of the housing shortage prevalent in Vienna. I have informed the Governor General in Kraków, as well as the Reichsführer SS, about this decision of the Führer, and I request you also to take cognizance of it."—Signed—"Lammers."

As a last piece of illustrative evidence against this youngest member of the defendants in the dock, I take something from his own lips, which was published for all Vienna and, indeed, for all Germany and the world to know, even at that time. It appears in the Vienna edition of the *Völkischer Beobachter,* on the 15th of September 1942, Document 3048-PS, your document book, Page 106. It is already in evidence as Exhibit USA-274.

I would like to point out that these words were uttered before the so-called European Youth League in Vienna in 1942. The Tribunal will recall that Schirach was still Reich Leader for Youth Education in the NSDAP at that time:

"Every Jew who exerts influence in Europe is a danger to European culture. If anyone reproaches me with having driven from this city, which was once the European metropolis of Jewry, tens of thousands upon tens of thousands of Jews into the ghetto of the East, I feel myself compelled to reply, 'I see in this an action contributing to European culture.' "

Although Schirach's principal assistance to the conspiracy was made in his commission of the German youth to the conspirators' objectives, he also stands guilty of heinous Crimes against Humanity as a Party and governmental administrator of high standing, after the conspiracy had reached its inevitable involvement in wars of aggression.

This completes, Your Honors, the presentation on the individual responsibility of the Defendant Schirach.

The Prosecution will next take up the responsibility of the Defendant Martin Bormann, and the presentation will be made by Lieutenant Lambert.

DR. SAUTER: Mr. President, as to the various errors made in the case against Schirach, I shall state my position when the Defense has its turn. But I should like to take the opportunity now of pointing out an error in translation in one of the documents. It is in Document 3352-PS.

It is an order of the Reich Chancellery to the subordinate offices, and this order mentions that the labor offices had to be at the disposal of the Gauleiter under certain circumstances. In the German original of this order it reads as follows: "Anregungen und Wünsche." Now "Anregungen und Wünsche," that is...

THE PRESIDENT: Which page of the document is it?

DR. SAUTER: I think, Page 512 of Document 3352-PS, on Page 117 of the document book.

This German expression "Anregungen und Wünsche" has been translated by "suggestions" (for "Anregungen") and "demands" (for "Wünsche").

The first translation, the translation for "Anregungen," we consider to be correct; but the second translation, namely, "demands" for "Wünsche," we consider false, because, so far as we know, this word is "Befehle" or "Forderungen" in German. We should consider it correct if the English translation "demands" could be translated by another word, "wishes," which is an exact translation of the word "Wünsche." I do not know whether I have pronounced the word correctly in English. That is all I have to say for the time being. Thank you very much.

THE PRESIDENT (to Captain Sprecher): Do you wish to say anything about that?

CAPT. SPRECHER: I think that Dr. Sauter has made a very good point. I have checked with the translator beside me, Your Honor, and the German word "Wünsche" has been translated too strongly.

THE PRESIDENT: Very well.

LIEUTENANT THOMAS F. LAMBERT, JR. (Assistant Trial Counsel for the United States): May it please the Tribunal, the Prosecution comes now to deal with the Defendant Bormann and to present the proofs establishing his responsibility for the crimes set forth in the Indictment. And, if the Tribunal will allow, we should like to observe on the threshold that because of the absence

of the Defendant Bormann from the dock we believe that we should make an extra effort to make a solid record in the case against Bormann, out of fairness to Defense Counsel and for the convenience of the Tribunal.

I offer the document book supporting this trial address as U.S. Exhibit JJ, together with the trial brief against the Defendant Bormann.

The Defendant Bormann bears a major responsibility for promoting the accession to power of the Nazi conspirators, the consolidation of their total power over Germany, and the preparation for aggressive war set forth in Count One of the Indictment.

Upon the Record of this Trial the Nazi Party and its Leadership Corps were the main vehicles of the conspiracy and the fountainhead of the conspiracy.

Now, following the flight of the Defendant Hess to Scotland in May 1941, Bormann became executive chief of the Nazi Party. His official title was Chief of the Party Chancellery. Before that date Bormann was chief of staff to the Defendant Hess, the Deputy to the Führer.

By virtue of these two powerful positions—Chief of the Party Chancellery and Chief of Staff to the Deputy to the Führer—Bormann stands revealed as a principal architect of the conspiracy. Subject only—and we stress—subject only to the supreme authority of Hitler, Bormann engineered and employed the vast powers of the Party, its agencies, and formations, in furtherance of the Nazi conspiracy; and he employed the Party to impose the will of the conspirators upon the German people; and he then directed the powers of the Party in the drive to dominate Europe.

Accordingly, the Defendant Bormann is blameworthy for the multiple crimes of the conspiracy, for the multiple crimes committed by the Party, its agencies, and the German people, in furthering the conspiracy.

It might be helpful to give a very brief sketch of the career in conspiracy of the Defendant Bormann.

Bormann began his conspiratorial activities more than 20 years ago. In 1922, only 22 years of age, he joined the Organization Rossbach, one of the illegal groups which continued the militaristic traditions of the German Army and employed terror against the small struggling pacifist minority in Germany. While he was district leader for this organization in Mecklenburg, he was arrested and tried for his part in a political assassination, which, we suggest, indicates his disposition to use illegal methods to carry out purposes satisfactory to himself. On 15 May 1924 he was found guilty by the State Tribunal for the Protection of the Republic and sentenced to 1 year in prison.

Upon his release from prison in 1925 Bormann resumed his subversive activities. He joined the militarist organization "Frontbann," and in the same year he joined the Nazi Party and began his ascent to a prominent position in the conspiracy. In 1927 he became press chief for the Party Gau of Thuringia. In other words, relating back to the case against the Leadership Corps, he became an important staff officer of a Gauleiter. On 1 April 1928 he was made District Leader (Bezirksleiter) in Thuringia and business manager for the entire Gau.

We come now to a particularly important point involving Bormann's tie-up with the SA.

From 15 November 1928 to August 1930 he was on the staff of the Supreme Command of the SA.

Now the Tribunal has heard the demonstration of the criminality of the SA and knows full well that this was a semi-military organization of young men whose main mission was to get control of the streets and to impose terror on oppositional elements of the conspiracy.

Our submission at this stage is that, by virtue of Bormann's position on the staff of the Supreme Command of the SA, he shares responsibility for the illegal activities of the SA in furtherance of the conspiracy.

In August 1930 Bormann organized the Aid Fund (Hilfskasse) of the Nazi Party, of which he became head. Through this fund he collected large sums for the alleged purpose of aiding the families of Party members who had been killed or injured while fighting for the Party.

As the Tribunal knows, on 30 January 1933 the conspirators and their Party took over the Government of Germany. Shortly thereafter, in July 1933, Bormann was given the number three position in the Party, that of chief of staff to the Defendant Hess, the Deputy to the Führer. At the same time he was made a Reichsleiter; and as the Tribunal knows, that makes him a member of the top level of the alleged illegal organization, the Leadership Corps of the Nazi Party.

In November 1933 he was made a member of the Reichstag.

I request the Tribunal to take judicial notice of the authoritative German publication *The Greater German Reichstag,* edition of 1943. The facts which I have recited in the foregoing sketch of Defendant Bormann's career are set forth on Page 167 of that publication, the English translation of which appears in Document 2981-PS of the document book now before the Tribunal.

With respect to Bormann's conviction for political murder, I offer in evidence Document 3355-PS, Exhibit USA-682, which is

the affidavit of Dr. Robert M. W. Kempner, and I quote therefrom briefly as follows:

"I, Robert M. W. Kempner, an expert consultant of the War Department, appeared before the undersigned attesting officer and, having been duly sworn, stated as follows:

"In my capacity as Superior Government Counsellor and Chief Legal Advisor of the pre-Hitler Prussian Police Administration, I became officially acquainted with the criminal record of Martin Bormann, identical with the Defendant Martin Bormann now under indictment before the International Military Tribunal in Nuremberg, Germany.

"The official criminal record of Martin Bormann contained the following entry:

"Bormann, Martin, sentenced on May 15, 1924, by the State Tribunal for the Protection of the Republic, in Leipzig, Germany, to 1 year in prison, for having been an accomplice in the commission of a political murder."—Signed—"Robert M. W. Kempner."—End of quotation.

THE PRESIDENT: Lieutenant Lambert, I don't think it is necessary for you, when dealing with a document of that sort, to read the formal parts. If you state the nature of the document and read the material part, you needn't deal with the formal parts, for instance, "I, Robert Kempner, an expert consultant," and all that. Do you understand me?

LT. LAMBERT: Thank you very much, Sir, for a very helpful suggestion.

As Defendant Hess' chief of staff, Bormann was responsible for receiving and channelling up to the Defendant Hess the demands of the Party in all fields of State action. These demands were then secured by the Defendant Hess by virtue of his participation in the legislative process, his power with respect to the appointment and promotion of government officials, and by virtue of his position in the Reich Cabinet.

I come now, as it seems to us, to an important point, which ties up the Defendant Bormann with the SD and the Gestapo. As chief of staff of the Defendant Hess, Bormann took measures to reinforce the grip of the Gestapo and the SD over the German civil population. I request the Tribunal to notice judicially a Bormann order of 14 February 1935, set forth in the official publication *Decrees of the Deputy of the Führer*, Edition 1937, Page 257. I quote merely the pertinent portions of that decree, the English version of which is set forth in our Document 3237-PS, which reads as follows. That is our Document 3237-PS.

THE PRESIDENT: If it is a document of which we can take judicial notice, it is sufficient for you to summarize it without reading it.

LT. LAMBERT: I appreciate that, Sir. This quotation is so succinct and so brief that we perhaps could avoid summarization.

THE PRESIDENT: Very well, go on.

LT. LAMBERT: "The Deputy to the Führer expects that Party offices will now abandon all distrust of the SD and will support it wholeheartedly in the performance of the difficult tasks with which it has been entrusted for the protection of the Movement and our people.

"Because the work of the SD is primarily to the benefit of the work of the Party, it is inadmissable that its development be upset by uncalled-for attacks when individuals fall short of expectations. On the contrary, it must be wholeheartedly assisted."—Signed—"Bormann, Chief of Staff to the Deputy to the Führer."

That is with respect to Bormann's support of the SD. I deal now with Bormann's effort to support the work of the Gestapo.

THE PRESIDENT: Lieutenant Lambert, wouldn't it be sufficient to say that document indicates the support Bormann promised to the SD?

LT. LAMBERT: I was anxious merely on one point, Sir, that a document was not in evidence unless it had been quoted.

THE PRESIDENT: Well, you began by asking us to take judicial notice of it. If we can take judicial notice of it, it need not be quoted.

LT. LAMBERT: Then, with respect to Bormann's efforts to reinforce the grip of the Gestapo, I request the Tribunal to notice judicially a Bormann order of 3 September 1935, calling on Party agencies to report to the Gestapo all persons who criticize Nazi institutions or the Nazi Party. This decree appears in the official Party publication *Decrees of the Deputy of the Führer,* 1937, at Page 190. The English translation is set forth in our Document 3239-PS. I shall summarize the effect of this document shortly. In its first paragraph it refers to a law of 20 December 1934. As the Tribunal will recall, this law gave the same protection to Party institutions and Party uniforms as enjoyed by the State; and in the first and second paragraphs of this decree it is indicated that whenever a case came up involving malicious or slanderous attack on Party members or the Nazi Party or its institutions, the Reich Minister of Justice would consult with the Deputy of the Führer in order to take joint action against the offenders. Then, in the third paragraph, Bormann gives

his orders to all Party agencies with respect to reporting to the Gestapo individuals who criticized the Nazi Party or its institutions. I quote merely the last paragraph.

THE PRESIDENT: Well, I took down what you said in your first sentence, which was that the document showed that he was ordering that a report should be made to the Gestapo on anyone criticizing the Party. Well, that is sufficient, it seems to me, and all that you said after is cumulative.

LT. LAMBERT: There is, however, one brief point, if I may be permitted, which I should like to emphasize, about the last paragraph, because I think it is helpful to the Prosecution's case against the Leadership Corps of the Nazi Party.

The Tribunal will recall that it asked certain very material questions with respect to whether the Prosecution's evidence involved the rank and file of the Leadership Corps. In the last paragraph of this decree Bormann instructs the Ortsgruppenleiter—now that is way down in the Leadership Corps hierarchy under Kreisleiter and Gauleiter—to report to the Gestapo persons who criticize Nazi Party institutions.

Now, an important point with respect to the tie-up between Bormann and the SS. The Tribunal has already received the evidence establishing the criminality of the SS. In this connection, I respectfully request the Tribunal to notice judicially the July 1940 issue of *Das Archiv,* our Document 3234-PS. On Page 399 of that publication, under date 21 July 1940, it is stated that the Führer promoted Defendant Bormann from major general to lieutenant general in the SS. Accordingly, we respectfully submit that Bormann is chargeable and jointly responsible for the criminal activities of the SS.

After the flight of the Defendant Hess to Scotland in May 1941, the Defendant Bormann succeeded him as head of the Nazi Party under Hitler, with the title Chief of the Party Chancellery. I request the Tribunal to take judicial notice of a decree of 24 January 1942, 1942 *Reichsgesetzblatt,* Part I, Page 35. In our conception this is an extremely important decree, because by virtue of it the participation of the Party in all legislation and in government appointments and promotions had to be undertaken exclusively by Bormann. He was to take part in the preparation—and we emphasize that—as well as the enactment and promulgation of all Reich laws and enactments; and further, he had to give his assent to all enactments of the Reich Länder—that is, he states—as well as all decrees of the Reich governors. All communications between state and Party officials had to pass through his hands. And, as a result of this law, we respectfully submit,

Bormann is chargeable for every enactment issued in Germany after 24 January 1942 which facilitates and furthers the conspiracy.

It will be helpful, I believe, to point out and to request the Court to take judicial notice of a decree of 29 May 1941, 1941 *Reichsgesetzblatt,* Part I, Page 295 (Document 2099-PS); in this decree Hitler ordered that Bormann should take over all powers and all offices formerly held by the Defendant Hess. I request the Tribunal to take judicial notice of another very important decree, that of the Ministerial Council for Defense of the Reich, 16 November 1942 . . .

THE PRESIDENT: Are these documents set out in the document book?

LT. LAMBERT: Yes, Sir.

THE PRESIDENT: You haven't given us the reference.

LT. LAMBERT: That is true, Sir. I recall from memory, although I do not have it in my manuscript, that document, that important decree of 24 January 1942, is our Document, I believe, 2100-PS.

I now request the Tribunal to take judicial notice of the important decree of the Ministerial Council for Defense of the Reich, dated 16 November 1942, 1942 *Reichsgesetzblatt,* Part I, Page 649 (Document JN-5). Under this decree all Gauleiter, who were under Bormann by virtue of his position as Chief of the Party Chancellery, were appointed Reich defense commissars and charged with the co-ordination, supervision, and management of the aggressive Nazi war effort.

From then on the Party, under Bormann, became the decisive force in planning and conducting the aggressive Nazi war economy.

On 12 April 1943, as is shown in the publication *The Greater German Reichstag,* 1943 edition, Page 167, our Document 2981-PS, Bormann was appointed Secretary of the Führer, and we submit that this fact testifies to the intimacy and influence of the Defendant Bormann with the Führer and enlarges his role in, and responsibility for, the conspiracy.

We now come to the important point of Bormann's executive responsibility for the acts of the Volkssturm. I request the Tribunal to notice judicially a Führer order of 18 October 1944, which was published in the official *Völkischer Beobachter,* 20 October 1944 edition, in which Hitler appointed Bormann political and organizational leader of the Volkssturm. This is set forth in our Document 3018-PS. In this decree Himmler is made the military leader of the Volkssturm, but the organizational and political leadership is entrusted to Bormann. The Tribunal will know that the Volkssturm was an organization consisting of all German males between 16 and 60. By virtue of his leadership of the Volkssturm Bormann was

instrumental in needlessly prolonging the war, with a consequential destruction of the German and the European economy and a loss of life and destruction of property.

We come now to deal with the responsibility of the Defendant Bormann with respect to persecution of the Church. The Defendant Bormann authorized, directed, and participated in measures involving the persecution of the Christian Church. The Tribunal, of course, has heard much in this proceeding concerning the acts of the conspiracy involving the persecution of the Church. We have no desire now to rehash that evidence. We are interested in one thing alone, and that is nailing on the Defendant Bormann his responsibility, his personal, individual responsibility, for the persecution of the Church.

I shall now present the proofs showing the responsibility of Bormann with respect to such persecution of the Christian churches.

Bormann was among the most relentless enemies of the Christian Church and Christian clergy in Germany and in German-occupied Europe. I refer the Tribunal, without quoting therefrom, to Document D-75, previously introduced in evidence as Exhibit Number USA-348, which contains a copy of the secret Bormann decree of 6 June 1941 entitled "The Relationship of National Socialism to Christianity." In this decree, as the Tribunal will well recall, Bormann bluntly declared that National Socialism and Christianity were incompatible, and he indicated that the ultimate aim of the conspirators was to assure the elimination of Christianity itself.

I next refer the Tribunal, without quotation, to Document 098-PS, previously put in as Exhibit Number USA-350. This is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 22 February 1940, in which Bormann reaffirms the incompatibility of Christianity and National Socialism.

Now, in furtherance of the conspirators' aim to undermine the Christian churches, Bormann took measures to eliminate the influence of the Christian Church from within the Nazi Party and its formations. I now offer in evidence Document 113-PS, as Exhibit USA-683. This is an order of the Defendant Bormann, dated 27 July 1938, issued as chief of staff to the Deputy of the Führer, Hess, which prohibits clergymen from holding Party offices. I shall not take the time of the Tribunal to spread this quotation upon the Record. The point of it is, as indicated, that Bormann issued an order forbidding the appointment of clergymen to Party positions.

THE PRESIDENT: Perhaps this would be a good time to break off for 10 minutes.

[A recess was taken.]

LT. LAMBERT: May it please the Tribunal, we are dealing with the efforts of the Defendant Bormann to expel and exorcise from the Party all church and religious influence.

I offer in evidence Document 838-PS, as Exhibit USA-684. I shall not burden the Record with extensive quotation from this exhibit, but merely point out that this is a copy of a Bormann decree dated 3 June 1939, which laid it down that followers of Christian Science should be excluded from the Party.

The attention of the Tribunal is next invited to Document 840-PS, previously introduced in evidence as Exhibit USA-355. The Tribunal will recall that this was a Bormann decree of 14 July 1939, referring with approval to an earlier Bormann decree of 9 February 1937 in which the Defendant Bormann ruled that in the future all Party members who entered the clergy or who undertook the study of theology were to be expelled from the Party.

I next offer in evidence Document 107-PS, Exhibit USA-351. This is a circular directive of the Defendant Bormann, dated 17 June 1938, addressed to all Reichsleiter and Gauleiter—top leaders of the Leadership Corps of the Nazi Party—transmitting a copy of directions relating to the non-participation of the Reich Labor Service in religious celebrations. The Reich Labor Service, the Tribunal will recall, compulsorily incorporated all Germans within its organization.

DR. FRIEDRICH BERGOLD (Counsel for Defendant Bormann): The member of the Prosecution has just submitted a number of documents, in which he proves that, on the suggestion of Bormann, members of the Christian religion were to be excluded from the Party or from certain organizations. I beg the High Tribunal to allow the member of the Prosecution to explain to me how and why this activity, that is, the exclusion of Christians from the Party, can be a War Crime. I cannot gather this evidence from the trial brief. The Party is described as criminal—as a conspiracy. Is it a crime to exclude certain people from membership in a criminal conspiracy? Is that considered a crime? How and why is the exclusion of certain members from the Party a crime?

THE PRESIDENT: Counsel will answer you.

LT. LAMBERT: If the Tribunal will willingly accommodate argument at this stage, we find that the question. . .

THE PRESIDENT: Only short argument.

LT. LAMBERT: Yes, Sir . . . . admits of a short, and, as it seems to us, an easy answer.

The point we are now trying to prove—and evidence is abounding on it—is that Bormann had a hatred and an enmity and took oppositional measures towards the Christian Church. The Party was the repository of political power in Germany. To have power one had

to be in the Party or subject to its favor. By his efforts, concerted, continuing, and consistent, to exclude clergymen, theological students, or any persons sympathetic to the Christian religion, Bormann could not have chosen a clearer method of showing and demonstrating his hatred and his distrust of the Christian religion and those who supported it.

THE PRESIDENT: Counsel for Bormann can present his argument upon this subject at a later stage. The documents appear to the Tribunal to be relevant.

LT. LAMBERT: With the Tribunal's permission, I had just put in Document 107-PS and pointed out that it transmitted directions relating to the non-participation of the Reich Labor Service in religious celebrations. I quote merely the fourth and fifth paragraphs of Page 1 of the English translation of Document 107-PS, which reads as follows:

> "All religious discussion is forbidden in the Reich Labor Service because it disturbs the comrade-like union of all working men and women.
>
> "For this reason also any participation of the Reich Labor Service in church, that is, confessional, services and celebrations is impossible."

The attention of the Tribunal is next invited to Document 070-PS, previously put in as Exhibit USA-349. The Tribunal will recall that this was a letter from Bormann's office to the Defendant Rosenberg, dated 25 April 1941, in which Bormann declared that he had achieved progressive success in reducing and abolishing religious services in schools and in replacing Christian prayers with National Socialist mottoes and rituals. In this letter Bormann also proposed a Nazified morning service in the schools in place of the existing confession and morning service.

In his concerted efforts to undermine and subvert the Christian churches, Bormann authorized, directed, and participated in measures leading to the closing, reduction, and suppression of theological schools, faculties, and institutions. The attention of the Tribunal is invited to Document 116-PS, Exhibit Number USA-685, which I offer in evidence. This is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 24 January 1939, enclosing for Rosenberg's cognizance a copy of Bormann's letter to the Reich Minister for Science, Education, and Popular Culture. In the enclosed letter Bormann informs the Minister as to the Party's position in favor of restricting and suppressing theological faculties. Bormann states that, owing to war conditions, it had become necessary to reorganize the German high schools and, in view of this situation, he requested the Minister to restrict and suppress certain theological faculties.

I now quote from the first paragraph on Page 3 of the English translation of Document 116-PS, which reads as follows:

> "I therefore should like to see you put the theological faculties under substantial limitations, where, for the above reasons, they cannot be entirely eliminated. This will apply not only to the theological faculties at universities but also to the various state institutions which, as seminaries having no affiliation with any university, still exist in many places.
>
> "I request that no express explanations be given to churches or other institutions and that public announcement of these measures be avoided. Complaints and the like are to be answered if at all, with the explanation that these measures are carried out in the course of planned economy and that the same is happening to other faculties.
>
> "I would be glad if the professorial chairs thus made vacant could then be turned over especially to those fields of research newly created in recent years, such as racial research, archeology, *et cetera,* Martin Bormann."

In our submission, what this document comes to is a request from Bormann to this effect: Please close down the religious faculties and substitute in their place Nazi faculties and university chairs with the mission of investigating racism, cultism, Nazi archeology. This sort of thing was done in the Hohe Schule, as was so clearly demonstrated in the Prosecution's case against the plundering activities of the Einsatzstab Rosenberg.

The attention of the Tribunal is next invited to Document 122-PS, previously put in as Exhibit Number USA-362. The Tribunal will recall that 122-PS is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 17 April 1939, transmitting to Rosenberg a photostatic copy of the plan of the Reich Minister of Science, Education, and Popular Culture for the combining and dissolving of certain specified theological faculties. In his letter of transmittal Bormann requested Rosenberg to take "cognizance and prompt action" with respect to the proposed suppression of religious institutions.

I next offer in evidence Document 123-PS, Exhibit USA-686. This is a confidential letter from the Defendant Bormann to the Minister of Education, dated 23 June 1939, in which Bormann sets forth the Party's decision to order the suppression of numerous theological faculties and religious institutions. The Tribunal will note that the letter lists 19 separate religious institutions with respect to which Bormann ordered dissolution or restriction.

After directing the action to be taken by the Minister in connection with the various theological faculties, Bormann stated as follows

—and I quote from the next to last paragraph of Page 3 of the English translation of Document 123-PS:

> "In the above I have informed you of the Party's wishes, after thorough investigation of the matter with all Party offices. I should be grateful if you would initiate the necessary measures as quickly as possible. With regard to the great political significance which every single case of such a consolidation will have for the Gau concerned, I ask you to take these measures and particularly to fix dates for them always in agreement with me."

I next offer in evidence, without quotation, Document 131-PS as Exhibit USA-687. In summary, without quotation therefrom, this is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 12 December 1939, relating to the suppression of seven professorships in the near-by University of Munich.

Now I deal briefly with the responsibility of Bormann for the confiscation of religious property and cultural property. Bormann used his paramount power and position to cause the confiscation of religious property and to subject the Christian churches and clergy to a discriminatory legal regime.

I offer in evidence Document 099-PS, Exhibit USA-688. This is a copy of a letter from Bormann to the Reich Minister for Finance, dated 19 January 1940, in which Bormann demanded a great increase in the special war tax imposed on the churches. I quote from the first two paragraphs of Page 2 of the English translation of Document 099-PS, which read as follows:

> "As it has been reported to me, the war contribution of the churches for the 3-month period beginning 1 November 1939 has been tentatively set at RM 1,800,000 per month, of which RM 1 million are to be paid by the Protestant Church, and RM 800,000 by the Catholic Church.
>
> "The fixing of such a low amount has surprised me. I see from numerous reports that political communities are obliged to raise such a large war contribution that the performance of their tasks—some of them very important; for example, in the field of public welfare—is endangered. In view of this, a higher quota also from the churches appears to me to be absolutely justified."

The question may arise: Of what criminal effect is it to demand larger taxes from church institutions? As to this demand of Bormann's taken by itself, the Prosecution would not suggest that it had criminal effect, but when viewed within the larger frame of Bormann's demonstrated hostility to the Christian Church and his efforts not merely to circumscribe but to eliminate it, we suggest that this document has probative value in showing Bormann's

hostility and his concrete measures to effectuate that hostility against the Christian churches and clergy.

I next refer the Tribunal to Document 089-PS, previously put in as Exhibit Number USA-360. The Tribunal will recall that this was a letter from Bormann to Reichsleiter Amann, dated 8 March 1940, in which Bormann instructed Amann, Reichsleiter of the Press, to make a sharper restriction in paper distribution against religious writings in favor of publications more acceptable to the Nazi ideology.

I next offer in evidence Document 066-PS, as Exhibit USA-689. This is a letter from the Defendant Bormann to the Defendant Rosenberg, dated 24 June 1940, transmitting a draft of a proposed discriminatory church law for Danzig and West Prussia. This decree is a direct abridgment of religious freedom, for in Paragraph 1—I do not quote, but briefly and rapidly summarize—the approval of the Reich deputy for Danzig and West Prussia is required as a condition for the legal competence of all religious organizations.

Paragraph 3 of the decree suspended all claims of religious organizations and congregations to state or municipal subsidies and prohibited religious organizations from exercising their right of collecting dues without the approval of the Reich deputy.

In Paragraph 5 of the decree the acquisition of property by religious organizations was made subject to the approval of the Reich deputy. All credit rights acquired by religious organizations prior to 1 January 1940 were required to be ratified by the Reich Deputy in order to become actionable.

I now offer in evidence Document 1600-PS, Exhibit USA-690. This comprises correspondence of Bormann during 1940 and 1941 relating to the confiscation of religious art treasures. I quote the text of the second letter set forth on Page 1 of the English translation of Document 1600-PS, which is a letter from the Defendant Bormann to Dr. Posse of the State Picture Gallery in Dresden, dated 16 January 1941, which reads as follows, and I quote:

"Dear Dr. Posse:

"Enclosed herewith I am sending you the pictures of the altar from the convent in Hohenfurth near Krumau. The convent and its entire property will be confiscated in the immediate future because of the subversive attitude of its inmates toward the State.

"It would be up to you to decide whether the pictures are to remain in the convent at Hohenfurth or are to be transferred to the museum at Linz after its completion.

"I shall await your opinion in the matter. Bormann."

The Tribunal may know that, in what is described as Hitler's last will and testament, he makes a bequest of all the art treasures

he had in the museum at Linz, and from a legal point of view he uses the euphemism "art treasures which I have bought." This document, on its face, suggests how at least certain of the properties, the art treasures in the museum at Linz, were acquired.

Finally, as the war drew increasing numbers of German youth into the Armed Forces, the Defendant Bormann took measures to exclude and exorcise all religious influence from the troops. The attention of the Tribunal is invited to Document 101-PS, previously put in as Exhibit Number USA-361. The Tribunal will recall that this is a letter from the Defendant Bormann, dated 17 January 1940, in which Bormann pronounced the Party's opposition to the circulation of religious literature to the members of the German Armed Forces. In this letter Bormann stated that if the influence of the church upon the troops was to be effectively fought, this could only be done by producing, in the shortest possible time, a large amount of Nazi pamphlets and publications.

I now offer in evidence Document 100-PS, as Exhibit Number USA-691. This is a letter from the Defendant Bormann to Rosenberg, dated 18 January 1940, in which Bormann declares that the publication of Nazi literature for army recruits as a counter measure to the circulation of religious writings was the "most essential demand of the hour."

I forbear quoting from that document. Its substance is indicated.

I now request the Tribunal to notice judicially the authoritative Nazi publication entitled *Decrees of the Deputy of the Führer,* edition of 1937; and I quote from Page 235 of this volume the pertinent and important decree issued by the Defendant Bormann to the Commissioner of the Party Directorate, dated 7 January 1936, the English version of which is set forth in the English translation of our Document 3246-PS. In this one sentence Bormann aims and directs the terror of the Gestapo against dissident church members who crossed the conspirators, and I quote:

> "If parish priests or other subordinate Roman Catholic leaders adopt an attitude of hostility toward the State or Party, it shall be reported to the Secret State Police"—Gestapo—"through official channels."—Signed—"Bormann."

By leave of the Tribunal, I come now to deal with the responsibility of the Defendant Bormann for the persecution of the Jews.

Again, the Prosecution seeks not to rehash the copious evidence in the Record on the persecution of the Jews but rather to limit itself to evidence fastening on the Defendant Bormann his individual responsibility for the persecution of the Jews. Bormann shares the deep guilt of the Nazi conspirators for their odious program in the persecution of the Jews. It was the Defendant Bormann, we would

note, who was charged by Hitler with the transmission and implementation of the Führer's orders for the liquidation of the so-called Jewish problem.

Following the Party-planned and Party-directed program of 8 and 9 November 1938, in the course of which a large number of Jews were killed and harmed, Jewish shops pillaged and wrecked, and synagogues set ablaze all over the Reich, the Defendant Bormann, on orders from Hitler, instructed the Defendant Göring to proceed to the "final settlement of the Jewish question" in Germany.

The attention of the Tribunal is invited to Document 1816-PS, previously put in as Exhibit USA-261. The Tribunal is well acquainted with this document. It has frequently been referred to. The Tribunal knows that Document 1816-PS is the minutes of a conference on the Jewish question, held under the direction of Göring on the 12th of November 1938. I quote only the first sentence of Document 1816-PS, which fastens the responsibility upon Bormann and which reads as follows:

> "Göring: 'Gentlemen, today's meeting is of a decisive nature. I have received a letter written on the Führer's orders by the Chief of Staff of the Führer's Deputy, Bormann, requesting that the Jewish question be now, once and for all, co-ordinated and solved in one way or another.' "

The Tribunal is well aware of the proposals, the discussions, and the actions taken in this conference that constituted the so-called "settlement of the Jewish question."

As a result of this conference a series of anti-Jewish decrees and measures were issued and adopted by the Nazi conspirators. I offer in evidence Document 069-PS, Exhibit USA-589. This is a decree of Bormann, dated 17 January 1939, in which Bormann demands compliance with the new anti-Jewish regulations stemming and flowing from the Göring conference just referred to, under which Jews were denied access to housing, travel, and other facilities of ordinary life. I quote the Bormann order, which appears at Page 1 of the English translation of Document 069-PS, which reads as follows:

> "According to a report of General Field Marshal Göring, the Führer has made some basic decisions regarding the Jewish question. The decisions are brought to your attention in the enclosure. Strict compliance with these directives is requested."—Signed—"Bormann."

In the interests of expediting the proceedings, I shall resist the temptation to quote extensively from the enclosed order in Bormann's letter of transmittal. In effect, the crux of it is that Jews are denied sleeping compartments in trains, the right to give

their trade to certain hotels in Berlin, Munich, Nuremberg, Augsburg, and the like. They are banned and excluded from swimming pools, certain public squares, resort towns, mineral baths, and the like. The stigma, the degradation, and the inconvenience in the ordinary affairs of life promoted by this decree are plain.

I next request the Tribunal to notice judicially the decree of 12 November 1938, 1938 *Reichsgesetzblatt,* Part I, Page 1580 (Document JN-6), quite familiar to this Tribunal, for it was the decree which excluded Jews from economic life. This decree forbade Jews to operate retail shops, and it was a decree which went far to eliminate Jews from economic life.

Now Bormann also acted through other state agencies to wipe out the economic existence of large sections of the Jewish population. In that respect I request the Tribunal to notice judicially the authoritative Nazi publication entitled *Decrees of the Deputy of the Führer,* edition of 1937, our Document 3240-PS. At Page 383 of this publication there appears a decree of the Defendant Bormann, dated 8 January 1937, reproducing an order of the Defendant Frick, issued at Bormann's instigation, denying financial assistance to government employees who employed the services of Jewish doctors, lawyers, pharmacists, morticians, and other professional classes. I shall forbear from quoting the text of that decree. Its substance is as given.

If it please the Tribunal, for the benefit of the translators I shall continue reading from Page 25 of the manuscript.

After the outbreak of war the anti-Jewish measures increased in intensity and brutality. Thus, the Defendant Bormann participated in the arrangements for the deportation to Poland of 60,000 Jewish inhabitants of Vienna, in co-operation with the SS and the Gestapo. I have no doubt that the Tribunal received this document in connection with the case against Von Schirach; it is our Document 1950-PS, and on its face it points out, and Lammers says: Bormann has informed Von Schirach of your proposal to bring about the deportations. I limit myself to pointing out that single, solitary fact.

When Bormann succeeded the Defendant Hess as Chief of the Party Chancellery, he used his vast powers in such a way that he was a prime mover in the program of starvation, degradation, spoliation, and extermination of the Jews—and we use those terms advisedly—subject to the Draconian rule of the conspirators.

I request the Tribunal to notice judicially the decree of 31 May 1941, 1941 *Reichsgesetzblatt,* Part I, Page 297, which was signed by the Defendant Bormann and which extends the discriminatory Nuremberg laws into the annexed Eastern territories. I request the Tribunal to notice judicially the 11th ordinance under the

Reich citizenship law of 25 November 1941, 1941 *Reichsgesetzblatt*, Part I, Page 722, signed by Defendant Bormann, which ordered the confiscation of the property of all Jews who had left Germany or who had been deported.

I request the Tribunal to notice judicially an order of Bormann's dated 23 October 1941 . . .

THE PRESIDENT: You have not given us the PS numbers of either the decree of 31 of May 1941 or the one after that.

LT. LAMBERT: I confess dereliction of duty there. These decrees, in translated form, are all in the document book. I do not have, in my manuscript, their PS citation. However, in the brief now filed with or soon to be delivered to the Tribunal, these decrees are given with their PS numbers opposite.

THE PRESIDENT: 3354-PS and 3241-PS.

LT. LAMBERT: That is very good of you, Sir. Thank you.

I request the Tribunal to notice judicially an order of the Defendant Bormann, dated 23 October 1942, Volume II of the publication *Decrees, Regulations, Announcements,* Page 147. This is our document, I rejoice to be able to say, 3243-PS, which announces a Ministry of Food decree, issued at Bormann's instigation, which deprived Jews of many essential food items, all special sickness and pregnancy rations for expectant mothers and ordered confiscation of food parcels sent to the beleagured Jews from the sympathetic outside world.

I now request the Tribunal to notice judicially the 13th ordinance under the Reich citizenship law of 1 July 1943, 1943 *Reichsgesetzblatt,* Part I, Page 372, signed by the Defendant Bormann, under which all Jews were completely withdrawn from the protection of the ordinary courts and handed over to the exclusive jurisdiction of Himmler's police. This is our Document 1422-PS.

With leave of the Tribunal, we respectfully request the opportunity to underline the significance of that decree. In a society which desires to live under the rule of law, men are judged only after appearance before, and adjudication by, a court of law. The effect of this decree was to remove all alleged Jewish offenders from the jurisdiction of the courts of law and to turn them over to the police. The police were to have jurisdiction over alleged Jewish offenders, not the tribunal of law.

The result of this law was soon forthcoming, a result for which the Defendant Bormann shares the responsibility. On July 3, 1943, Himmler issued a decree, our Document 3085-PS, 1943 *Ministry of Interior Gazette,* Page 1085. I respectfully request the Tribunal to take judicial notice of this decree, which charged the Himmler

police and Gestapo with the execution of the foregoing ordinance closing the courts to the Jews and entrusting them to Himmler's police.

Finally, with respect to Bormann's responsibility for the persecution of the Jews, I request the Tribunal to notice judicially a decree of Bormann's, dated 9 October 1942, Volume II, *Decrees, Regulations, Announcements,* Pages 131, 132. It declared that the problem of eliminating forever millions of Jews from Greater German territory could no longer be solved by emigration merely, but only by the application of ruthless force in special camps in the East.

THE TRIBUNAL (Mr. Biddle): What are you referring to there?

LT. LAMBERT: That, Sir, is Document 3244-PS.

We had desired at the outset, Sir, to quote this decree in full as an irrefutable answer to a question put by Defense Counsel some days ago in cross-examination, as to whether or not anti-Semitic policies of the conspirators were the policies merely of certain demented or deviational members of the conspiracy and not the concerted, settled policy of the conspiracy itself. Time does not permit the full quotation of this decree, but with the indulgence of the Tribunal, if I may offer the essence of this decree in a brief sentence or two.

Bormann starts out in this decree by saying: Recently rumors have been stimulated throughout the Reich as to "'violent things' we are doing with respect to the Jews." These rumors are being brought back to the Reich by our returning soldiers who have eye-witnessed them in the East. If we are to combat the effect of these rumors, then our attitude, as I now outline it to you officially, must be communicated to the German civil population. Bormann then reviews what he terms "the two-thousand-year-old struggle against Judaism," and he divides the Party's program into two spheres: the first, the effort of the Party and the conspirators to excommunicate and expel the Jews from the economic and social life of Germany. Then he adds: When we started rolling with our war, this measure by itself was not enough; we had to resort to forced emigration and set up our camps in the East. He then goes on to say that: As our armies have advanced in the East, we have overrun the lands to which we have sent the Jews, and now these emigration measures, our second proposal, are no longer sufficient.

Then he comes to the proposal, the considered proposal of himself and the Party Chancellery: We must transport these Jews eastward and farther eastward and place them in special camps for forced labor. I quote now merely the last sentence of Bormann's decree:

"It lies in the very nature of the matter that these problems, which in part are very difficult, can be solved only with ruthless severity in the interest of the final security of our people."—Bormann.

With leave of the Tribunal, I come now to deal . . .

THE PRESIDENT: Is it signed by Bormann? It does not appear to be. I thought you said, "Bormann."

LT. LAMBERT: That is what I said, true, Sir.

If the Tribunal will refer, as it has, to Document 3244-PS, it is clear that this is a Bormann decree, issued from the Office of the Deputy to the Führer. It is true in this translation of the decree, Sir, Bormann's name is not affixed; but in the original volume it is very clear that this is a decree of Bormann's, issued from the Party Chancellery. The Prosecution so assures the Tribunal and accepts responsibility for that submission.

With leave of the Tribunal, I now come to deal with the responsibility of the Defendant Bormann for overt acts, for the commission and planning of a wide variety of crimes in furtherance of the conspiracy. The Tribunal knows the vast powers that Bormann possessed; that has already been put in evidence. Our point is that he used these vast powers, buttressed by his position as secretary to the Führer attending all the conferences at the Führer's headquarters, in the planning, the authorization, and the participation in overt acts denominated War Crimes and Crimes against Humanity.

The attention of the Tribunal is invited to Document L-221, previously put in as Exhibit USA-317. The Tribunal knows that this document is a comprehensive report, dated 16 July 1941, made by the Defendant Bormann just 3 weeks after the invasion of the territory of the Soviet Union by Germany. It is a report of a 20-hour conference at Hitler's field headquarters with the Defendants Göring, Rosenberg, Keitel, and with Reich Minister Lammers. This conference resulted in the adoption of detailed plans and directives for the enslavement, depopulation, Germanization, and annexation of extensive territories in the Soviet Union and other countries of eastern Europe.

In his report on this conference, set forth in Document L-221, Bormann included numerous proposals of his own for the execution of these plans.

Later the Defendant Bormann took a prominent part in implementing the conspiratorial program. The attention of the Tribunal is invited to Document 072-PS, previously put in as Exhibit USA-357. The Tribunal will recall that this is a letter from the

Defendant Bormann to the Defendant Rosenberg, dated 19 April 1941, dealing with the confiscation of cultural property in the East. I quote merely the last two paragraphs of the English translation of Document 072-PS, which reads as follows:

> "The Führer emphasized that in the Balkans the use of your experts"—I parenthetically insert that that is the experts of the Einsatzstab Rosenberg organization, the plundering organization—"the use of your experts would not be necessary, since there were no art objects to be confiscated. In Belgrade, only the collection of Prince Paul existed, which would be returned to him completely. The remaining material of the lodges, *et cetera*, would be seized by the men of SS Gruppenführer Heydrich.
>
> "The libraries and art objects of the monasteries confiscated in the Reich were to remain for the time being in these monasteries, insofar as the Gauleiter had not determined otherwise. After the war, a careful examination of the stock could be undertaken. Under no circumstances, however, should a centralization of all the libraries be undertaken . . . ."—Signed—"Bormann."

I now offer in evidence Document 061-PS, Exhibit USA-692. This is a secret letter from Bormann, dated 11 January 1944, in which Bormann discloses—and we stress this, very important as it seems to us—the existence of large-scale operations to drain off commodities from German-occupied Europe for delivery to the bombed-out population in Germany. The Tribunal knows that the Hague Regulations and the laws of war permit the requisitioning of goods and services only for the use of the Army of Occupation and for the needs of the administration of the area. This proposal and this action represent the requisitioning of materials in occupied areas for the use of the folk at home—of the home front.

I now quote the first two paragraphs of the English translation—Bormann's letter of 11 January 1944, set forth in the English translation of our Document 061-PS, which reads as follows:

> "Since the supply of textiles and household goods for the bombed population is becoming increasingly difficult, the proposition was made repeatedly to effect purchases in the occupied territories in greater proportions. Various Gauleiter proposed to let these purchases be handled by suitable private merchants who know these districts and have corresponding connections.
>
> "I have brought these proposals to the attention of the Reich Minister of Economics and am quoting his reply of 16 December 1943 on account of its fundamental importance:

"'I consider it an especially important task to make use of the economic power of the occupied territories for the Reich. You are aware of the fact that, since the occupation of the Western territories, the buying out of these countries has been effected to the greatest extent possible. Raw materials, semi-finished products, and stocks in finished goods have been rolling into Germany for months; valuable machines were sent to our armaments industry. Everything was done at that time to increase our armament potentialities. Later on, the shipments of these important economic goods were replaced by the so-called transfer of orders from industry to industry.' "

I shall end the quotation there. The rest is not material to the point.

In the course of the war—and this is of utmost importance in the view of the Prosecution...

THE PRESIDENT: Is it clear that that was confiscation?

LT. LAMBERT: It was not suggested, Sir, that this was confiscation. Our point was that the Hague regulations allow requisitions in return for payment only for the needs of the army of occupation and for the needs of administration of the occupied area. This represents, as it seems to us, a requisitioning program for the needs of the home front. It is on that point that we offer it.

We come now to what the Prosecution considers a most important point against the Defendant Bormann. In the course of the war Bormann issued a series of orders establishing Party jurisdiction over the treatment of prisoners of war, especially when employed as forced labor.

The Tribunal knows that, under the Geneva Convention of 1929 relating to prisoners of war, prisoners of war are the captives, not of the troops who take them or even of the army which captures them, but of the capturing power; and it is the capturing power which has jurisdiction over and responsibility for them.

By the series of decrees now to be put in, Bormann asserts and establishes Nazi Party jurisdiction over Allied prisoners of war. In the exercise of that Party jurisdiction he called for excessively harsh and brutal treatment of Allied prisoners of war.

I now offer in evidence Document 232-PS as Exhibit USA-693. This is a decree of the Defendant Bormann, dated 13 September 1944, addressed—will the Tribunal please note—to all Reichsleiter, Gauleiter, and Kreisleiter, and leaders of the Nazi affiliated organizations—numerous levels, that is, of the Leadership Corps of the Nazi Party—a decree establishing Nazi Party jurisdiction over the use of prisoners of war for forced labor.

I quote the first three paragraphs of Bormann's order, set forth on Page 1 of the English translation of Document 232-PS, which reads as follows:

"The regulations valid until now on the treatment of prisoners of war and the tasks of the guard units are no longer justified in view of the demands of the total war effort."

The Prosecution would intrude to ask the question: Since when do the exigencies of the war effort repeal or modify the provisions of international law?

"Therefore, the OKW, on my suggestion issued the regulation, a copy of which is enclosed.

"The following observations are made on its contents:

"1. The understanding exists between the Chief of the Supreme Command of the Armed Forces and myself that the co-operation of the Party in the commitment of prisoners of war is inevitable. Therefore, the officers assigned to the prisoner-of-war organization have been instructed to co-operate most closely with the Hoheitsträger. The commandants of the prisoner-of-war camps have immediately to detail liaison officers to the Kreisleiter.

"Thus the opportunity will be afforded the Hoheitsträger to alleviate existing difficulties locally, to exercise influence on the behavior of guards units"—and this is the point we underline—"and better to assimilate the commitment of prisoners of war to the political and economic demands."

Will the Tribunal permit me to observe that on the face of this order, addressed to Reichsleiter, Gauleiter, and Kreisleiter, and so to the officials of the Leadership Corps, in the terms of the order itself Hoheitsträger are referred to as co-operating media in this scheme.

The Tribunal has graciously given me an opportunity to observe that this decree is addressed to Reichsleiter, Gauleiter, Kreisleiter, and to the leaders of the affiliated and controlled Nazi organizations. As the Tribunal knows, within the Leadership Corps of the Nazi Party the Kreisleiter is a pretty low level. That is a county leader. On the face of the decree itself the co-operation of the Hoheitsträger is directed—and the Tribunal knows, under the evidence presented against the Leadership Corps, that Hoheitsträger range all the way from the Reichsleiter on the top—down to and including the 500,000 or so Blockleiter implicated.

I next offer in evidence Document D-163 as Exhibit USA-694. This is a letter of the Defendant Bormann, dated 5 November 1941, addressed—the Tribunal will please note—to all Reichsleiter, Gauleiter, and Kreisleiter (the last just mere county leaders), transmitting to these officials of the Leadership Corps of the Nazi Party

the instructions of the Reich Minister of the Interior prohibiting decent burials with religious ceremonies for Russian prisoners of war. I quote the pertinent portions of these instructions, beginning with the next to the last sentence of Page 1 of the English translation of D-163, which reads as follows:

"To save costs, service departments of the Army will generally be contacted regarding transport of corpses (furnishing of vehicles) whenever possible. No coffins will be indented for the transfer and burial. The body will be completely enveloped with strong paper (if possible, oil, tar, asphalt paper) or other suitable material. Transfer and burial is to be carried out unobtrusively. If a number of corpses have to be disposed of, the burial will be carried out in a communal grave. In this case, the bodies will be buried side by side (not on top of each other) and in accordance with the local custom regarding depth of graves. Where a graveyard is the place of burial a distant part will be chosen.

"No"—we repeat—"No burial ceremony or decoration of graves will be allowed."

I now offer in evidence Document 228-PS, Exhibit USA-695. This is a Bormann circular, dated 25 November 1943, issued from the headquarters of the Führer, demanding harsher treatment of prisoners of war and the increased exploitation of their manpower. I now quote the Bormann circular which is set forth on Page 1 of the English translation of Document 228-PS, which reads as follows:

"Individual Gau administrations often refer in reports to a too indulgent treatment of prisoners of war on the part of the guard personnel. In many places, according to these reports, the guarding authorities have even developed into protectors and caretakers of the prisoners of war.

"I informed the Supreme Command of the Armed Forces of these reports, with the comment that the productive German working population absolutely cannot understand it if, in a time when the German people is fighting for existence or non-existence, prisoners of war—hence our enemies—are leading a better life than the German working man and that it is an urgent duty of every German who has to do with prisoners of war, to bring about a complete utilization of their manpower.

"The chief of prisoner-of-war affairs in the Supreme Command of the Armed Forces has now given the unequivocal order, attached hereto in copy form, to the commanders of prisoners

of war in the military districts. I request that this order be brought orally to the attention of all Party office holders in the appropriate manner.

"In case that in the future, complaints about unsuitable treatment of prisoners of war still come to light, they are to be immediately communicated to the commanders of the prisoners of war with a reference to the attached order."

The Tribunal will note, of course, that on the face of the decree Bormann instructs that these orders be communicated orally to all Party officials and that surely must include the members of the Leadership Corps of the Nazi Party.

THE PRESIDENT: Speaking for myself, I don't see anything particularly wrong in that communication.

LT. LAMBERT: On that point, Sir, we submit that if you take a document which says, "We wish to utilize all the labor power of prisoners of war in our control possible and to get this result by suitable means," probably it tends to appear unexceptional. But viewing this document in relation to the other evidence in, and to be presented, which show a concerted and settled policy by Bormann and his co-conspirators to...

THE PRESIDENT: Well, it isn't necessary to argue it.

LT. LAMBERT: Yes, Sir. Thank you, Sir.

The attention of the Tribunal is invited to Document 656-PS, previously put in as Exhibit USA-339. The Tribunal will recall that this is a secret Bormann circular transmitting instructions of the Nazi High Command of 29 January 1943, providing for the enforcement of labor demands on Allied prisoners of war through the use of weapons and corporal punishment. I quote a brief excerpt from these instructions, beginning with the third sentence of the third numbered paragraph of Page 2 of the English translation of Document 656-PS, which reads as follows; and I quote:

"Should the prisoner of war not fulfill his order, then he has"—that is the guard unit, the guard personnel—"then he has, in the case of very exceptional need and extreme danger, the right to force obedience with weapons, if he has no other means. He may use the weapon insofar as this is necessary to attain his goal. If the assistant guard is not armed, then he is authorized in forcing obedience by other appropriate means."

The Tribunal knows that, under the Geneva Prisoners-of-War Convention of 1929, when prisoners of war prove derelict and refuse to carry out proper orders of the captive power or its

forces, such prisoners of war are subject to court-martial and military proceedings as if they were serving under their own forces. Here is a decree which, on its face, authorizes or attempts to authorize guard personnel to use the rifle or other suitable means of violence; and of course Your Lordship will understand it was this type of document we had in mind when we suggested that the decree of Bormann should be considered in the light of his other orders relating to the treatment of prisoners of war.

THE PRESIDENT: The Tribunal will adjourn now.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

LT. LAMBERT: The Tribunal will recall that at the close of the morning session I had been putting in a series of decrees of the Defendant Bormann in which he called for increasingly harsh and severe treatment of Allied prisoners of war. These instructions issued by the Defendant Bormann culminated in his decree of 30 September 1944. The attention of the Tribunal is invited to Document 058-PS, previously put in as Exhibit Number USA-456. The Tribunal will recall that this decree of the Defendant Bormann removed jurisdiction over all prisoners of war from the Nazi High Command and transferred it to Himmler. The decree also provided that all PW camp commanders should be under the orders of the local SS commanders. By virtue of this order of the Defendant Bormann, Hitler was enabled to proceed with his program of inhuman treatment and even extermination of Allied prisoners of war.

We now proceed to put in what the Prosecution conceive to be extremely important and extremely incriminating evidence against Bormann and the co-conspirators, that is, the responsibility of the Defendant Bormann for the organized lynching of Allied airmen. I offer in evidence Document 062-PS, Exhibit Number USA-696; and I very respectfully request the Tribunal to turn to this document. On its face it is an order dated 13 March 1940 from the Defendant Hess addressed to Reichsleiter, Gauleiter, and other Nazi officials and organizations. In this order these Party officials are instructed by the Defendant Hess to instruct the German civil population to arrest or liquidate all bailed-out Allied fliers. I call the attention of the Tribunal to the third paragraph on the first page of the English translation of Document 062-PS. In the third paragraph Hess directs that these instructions, which I shall soon read, are to be passed out only orally to all—will the Tribunal please mark that—district leaders or Kreisleiter, Ortsgruppenleiter, cell leaders, and even the block leaders; that is to say, this order must be passed out by all the officials of the Leadership Corps to the Hoheitsträger, ranging from Reichsleiter down to, and including, the Blockleiter.

Now turn to Document 062-PS, and the Tribunal will find the instructions which Hess demanded be disseminated by the Leadership Corps orally: The lynching of Allied fliers. These directions are headed: "About behavior in case of landings of enemy planes or parachutists." The first three instructions I omit as not material to the basic point now being made. Instruction 4 reads, and I quote: "Likewise enemy parachutists are immediately to be arrested or liquidated."

It speaks for itself and requires no further comment from the Prosecution.

Now, in order to insure the success of this scheme ordered by the Defendant Hess, Bormann issued a secret letter, dated 30 May 1944, to the officials, if the Tribunal will please mark, of the Leadership Corps of the Nazi Party, prohibiting any police measures or criminal proceedings against German civilians who had lynched or murdered Allied airmen. This document, our 057-PS, has been previously put in and received by the Tribunal in connection with the Prosecution's case against the alleged criminal organization, the Leadership Corps of the Nazi Party.

Now, may it please the Tribunal, that such lynchings, organized, authorized, and consented to by Defendant Bormann, actually took place has since been fully and indisputably demonstrated by trials by American military commissions which have resulted in the conviction of German civilians for the murder of Allied fliers. I request the Tribunal to take judicial notice of Military Commission Order Number 2, Headquarters 15th U. S. Army, dated 23 June 1945. This order is our Document 2559-PS. This order imposed the sentence of death upon a German civilian for violation of the laws and usages of war in murdering an American airman who had bailed out and landed without any means of defense.

The Tribunal will note from that order of the American Military Commission the 15th of August 1944 as date of crime; Bormann's order was dated May 1944.

I request the Tribunal to notice judicially Military Commission Order Number 5, Headquarters 3rd U. S. Army and Eastern Military District, dated 18 October 1945. This order is set forth in Document 2560-PS. This order imposed a sentence of death upon a German national for violating the laws and usages of war by murdering, on or about 12 December 1944, an American airman who landed in German territory.

We could cite further orders of American and other Allied military commissions sentencing German civilians to death for the lynching and murdering of Allied airmen who had bailed out and landed without means of defense on German territory. We think our point is made by taking the time of the Tribunal to cite those two orders.

As previously mentioned in the trial address, on 20 October 1944, when Nazi defeat in the war had become certain, Bormann assumed political and organizational command of the newly-formed Volkssturm, the people's army. By virtue of ordering the continued resistance by the Volkssturm, Bormann bears some responsibility for the resistance which prolonged the aggressive war for months.

I come now, if it please the Tribunal, to present the proofs showing that Bormann authorized, directed, and participated in a wide variety of Crimes against Humanity in aid of the conspiracy. Bormann played an important role in the administration of the

forced labor program. I offer in evidence Document D-226, Exhibit Number USA-697. This is a Speer circular, a circular of the Defendant Speer of 10 November 1944, transmitting Himmler's instructions that the Party and the Gestapo should co-operate in securing a larger productivity from the millions of impressed foreign workers in Germany. I quote the second numbered paragraph of Page 2 of the English translation of Document D-226, which reads as follows. I quote:

> "All men and women of the NSDAP, its subsidiaries and affiliated bodies in the works"—meaning of course factories—"will, in accordance with instructions from their Kreisleiter, be warned by their local group leaders"—we intrude to say that means Ortsgruppenleiter—"and be put under obligation to play their part in keeping foreigners under the most careful observation. They will report the least suspicion to the works foreman, which he will pass on to the defense deputy or, where such a deputy has not been appointed, to the police department concerned, while at the same time reporting to the works manager and the local group leader"—the Ortsgruppenleiter—"to exert untiringly and continuously their influence on foreigners, both in word and deed, in regard to the certainty of German victory and the German will to resist, thus producing a further increase of output in the works.
>
> "Party members, both men and women, and members of Party organizations and affiliated bodies must be expected more than ever before to conduct themselves in an exemplary manner."

Now, in a word, the significance of that decree: It is true it is a circular of Speer's reciting an arrangement between himself and Himmler, but the effect of the arrangement is to impose the onus and the continuous task of supplying foreign workers on Party members, a Party which, as the Tribunal knows, Bormann headed as executive chief.

Under the decree of 24 January 1942 no such directive could have been issued without the participation of Bormann, both in its preparation and its enactment.

I now offer in evidence Document 025-PS as Exhibit Number USA-698. This is a conference report dated 4 September 1942 which states that the recruitment, importation, mobilization, and processing of 500,000 female domestic workers from the east would be handled exclusively by the Defendant Sauckel, Himmler, and the Defendant Bormann. I quote the first two sentences of the third paragraph of the English translation of Document 025-PS, which reads as follows:

"The Führer has ordered the immediate importation of 400,000 to 500,000 female domestic eastern workers from the Ukraine between the ages of 15 and 35 and has charged the Plenipotentiary for Allocation of Labor with the execution of this action which is to end in about 3 months. In connection with this—this is also approved by Reichsleiter Bormann—the illegal bringing of female housekeepers into the Reich by members of the Armed Forces, or various other agencies is to be allowed subsequently and, furthermore, irrespective of the official recruiting, is not to be prevented."

And I now quote from the first sentence of the last paragraph on Page 4 of the English translation of Document Number 025-PS, and this is the part that hooks in the Defendant Bormann with the scheme:

"Generally one gathered from this conference that the questions concerning the recruitment and mobilization, as well as the treatment of female domestic workers from the east, are being handled by the Plenipotentiary for Allocation of Labor, the Reichsführer SS, and the Chief of the German Police and the Party Chancellery, and that the Reich Ministry for the Occupied Eastern Territories is in these questions considered as having no, or only limited, competence."

The Party Chancellery is here mentioned in terms, and Bormann was the leader of the Party Chancellery, as the Tribunal knows.

Now the defendant imposed his will on the administration of the German-occupied areas and insisted on the ruthless exploitation of the inhabitants of the occupied East. The attention of the Tribunal is respectfully invited to Document R-36, previously put in as Exhibit Number USA-344. The Tribunal is well acquainted with this document, for it has been referred to several times in these proceedings, and knows that this is an official memorandum of the Ministry for Occupied Eastern Territories, dated 19 August 1942, which states that the repressive views of the Defendant Bormann with respect to the inhabitants of the Eastern areas actually determined German occupational policies in the East. The Tribunal recalls the now almost notorious quotation from this Document R-36, which purports to paraphrase and constitute the essence of Bormann's views with respect to German occupational policy in the East. So often has it been quoted that I shall resist the temptation to repeat it, but in essence it comes to this. Bormann in effect says:

"The Slavs are to work for us. In so far as we don't need them, they may die. They should not receive the benefits of the German public health system. We do not care about their fertility. They may practice abortion and use contraceptives;

the more the better. We don't want them educated; it is enough if they can count up to 100. Such stooges will be the more useful to us. Religion we leave to them as a diversion. As to food, they will not get any more than is absolutely necessary. We are the masters; we come first."

We respectfully submit this as an accurate paraphrase and summary of the text of that document, Document R-36.

The attention of the Tribunal is next respectfully invited to Document 654-PS, previously put in as Exhibit Number USA-218. The Tribunal will recall that this is a conference report, dated 18 November 1942, embodying an agreement between the Minister of Justice and Himmler entered into by Bormann's suggestion under which all inhabitants of the Eastern occupied areas are subjected to a brutal police regime in the place of an ordinary judicial system. And the agreement refers all disputes between the Party, Reich Minister for Justice, and Himmler to Bormann for settlement.

Now, because Bormann issued these and related orders, we submit that he bears a large share of the responsibility for the discriminatory treatment and the extermination of great numbers of persons in German-occupied areas of the East.

With the indulgence of the Tribunal, I put the substance of what I have been privileged to present in a few words. We have shown that Bormann, only 45 years old at the time of Germany's defeat, contributed his entire adult life to the furtherance of the conspiracy. His crucial contribution to the conspiracy lay in his direction of the vast powers of the Nazi Party in advancing the multiple objectives of the conspiracy. First, as Chief of Staff to the Defendant Hess and then, as leader, in his own name, of the Party Chancellery, subject only to Hitler's supreme authority, he applied and directed the total power of the Party and its agencies to carry into execution the plans of the conspirators. He used his great powers to persecute the Christian Church and clergy and was an unrepentant foe of the fundamentals of the Christianity with which he warred.

He actively authorized and participated in measures designed to persecute the Jews, and his was a strong hand in pressing down the crown of thorns of misery on the brow of the Jewish people, both in Germany and in German-occupied Europe.

As Chief of the Party Chancellery and secretary to the Führer, Bormann authorized, directed, and participated in a wide variety of War Crimes and Crimes against Humanity, including, without limitation, the lynching of Allied airmen, the enslavement and inhuman treatment of the inhabitants of German-occupied Europe, the cruelty of impressed labor, the breaking up of homes contrary

to the clear provisions of the Hague regulations, and the planned persecution and extermination of the civil population of Eastern Europe.

May it please this Tribunal, every schoolboy knows that Hitler was an evil man. The point we respectfully emphasize is that without chieftains like Bormann, Hitler would never have been able to seize and consolidate total power in Germany, but he would have been left to walk the wilderness alone.

He was, in truth, an evil archangel to the Lucifer of Hitler; and, although he may remain a fugitive from the justice of this Tribunal, with an empty chair in the dock, Bormann cannot escape responsibility for his illegal conduct.

And we close with what seems to us an extremely important point. Bormann may not be here, but under the last sentence of Article VI of the Charter every defendant in this dock shown in our evidence to have been a leader, an organizer, an inciter, and an accomplice of this conspiracy is responsible for the acts of all persons in furtherance of the general scope of the conspiracy. And resting squarely on this proposition we submit, even though Bormann is not here, that every man in the dock shares responsibility for his criminal acts. And with this we close. The name of Bormann is not "written in water," but will be remembered as long as the Record of Your Honors' Tribunal is preserved.

I now have the privilege of introducing Lieutenant Henry Atherton, who will present the case for the Prosecution against the individual Defendant Seyss-Inquart.

LIEUTENANT HENRY K. ATHERTON (Assistant Trial Counsel for the United States): May it please the Tribunal, the Prosecution has prepared a trial brief for the convenience of the Tribunal showing the individual responsibility of the Defendant Seyss-Inquart. Copies of this brief are now being handed to the Tribunal. At the same time the document books which bear the letters "KK" and which contain translations of the evidence referred to in the brief, or to be introduced in evidence at this time, are also being handed to the Tribunal. At the outset I wish to make clear my intention to deal at this time only with the individual responsibility of Seyss-Inquart for the crimes charged in Counts One and Two of the Indictment. Evidence to show his guilt as charged under Counts Three and Four of the Indictment, that is, evidence specifically directed thereunto, is to be introduced later by the prosecutors of the French Republic and the Soviet Union.

Seyss-Inquart has agreed that he held the following positions in State and Party, and I am referring now to Document 2910-PS, which is Exhibit Number USA-17. He was State Councillor of Austria from May 1937 to 12 February 1938. He was Minister of

Interior and Security of Austria from 16 February 1938 to 11 March 1938; Chancellor of Austria from 11 March to 15 March 1938; Reich Governor of Austria from 15 March 1938 to 1 May 1939; Reich Minister without Portfolio from 1 May 1939 until September of that year; member of the Reich Cabinet from 1 May 1939 until the end of the war; Chief of the Civil Administration of South Poland from the early part of September 1939 until 12 October 1939; Deputy Governor General of Poland under the Defendant Frank from 12 October 1939 until May 1940; and, finally, Reich Commissioner of the Occupied Territories of the Netherlands from 29 May 1940 until the end of the war. He has also agreed that he became a member of the National Socialist Party on 13 March 1938 and that he was appointed a general in the SS 2 days later.

Now this list of positions which Seyss-Inquart has agreed that he held, if the Tribunal please, shows the place which he held in the Nazi Common Plan or Conspiracy. It shows his steady rise to greater influence and power, and especially it emphasizes his particular talent, his skill in effecting the enslavement of the smaller nations surrounding Germany for the benefit of what he called the Greater German Reich.

Now the Defendant Seyss-Inquart first became a member of the Nazi conspiracy in connection with the Nazi assault on Austria. Mr. Alderman has shown how the Nazis implemented their diplomatic and military preparations for this event by intensive political preparations within Austria.

The ultimate purpose of these preparations was to secure the appointment of Nazis, or persons known to be sympathetic to them, to key positions in the Austrian Government, particularly that of Minister of the Interior and Security, which controlled the police, thus permitting quick suppression of all opposition to the Nazis when the time came.

For this purpose Seyss-Inquart was a most effective tool, the first of the so-called Quislings or traitors used by the Nazis to further their aggressions and to fasten their hold on their victims. Seyss-Inquart has admitted his membership in the Party only from 13 March 1938, but I want to show that he was closely affiliated with them at a much earlier time. For this purpose I now offer in evidence Document 3271-PS as Exhibit Number USA-700.

Reading from Page 9 of the translation, he says in this letter, which is a letter to Himmler, dated 19 August 1939:

> "As far as my membership in the Party is concerned, I state that I was never asked to join the Party but had asked Dr. Kier in December 1931 to clarify my relationship with the Party, since I regarded the Party as the basis for the solution of the Austrian problem . . . I paid my membership fees and,

as I believe, directly to the Gau Vienna. These contributions also took place after the period of suppression. Later on I had direct contact with the Ortsgruppe in Dornbach. My wife paid these fees, but the Blockwart"—and I believe that is another word for Blockleiter—"was never in doubt, considering that this amount, 40 shillings per month, was a share for my wife and myself, and I was in every respect treated as a Party member."

Seyss-Inquart, in the last sentence of the paragraph says:

"In every way, therefore, I felt as a Party member, considered myself a Party member, thus, as stated, as far back as December 1931."

Now, if the Tribunal please, and before I leave this letter, I want just to refer to one or two sentences which the Tribunal will find in the third paragraph on Page 7 of the translation. Referring to a meeting which he had had with Hitler, Seyss-Inquart says:

"I left this discussion a very upright man with the unspeakably happy feeling of being permitted to be a tool of the Führer."

The truth of the matter is that Seyss-Inquart was an active supporter of the Nazis at all times after 1931. But after the Nazi Party in Austria was declared illegal in July 1934, he avoided too notorious a connection with the Nazi organization, in order to safeguard what the Nazis called his good legal position. By this device he was better able to use his connections with Catholics and others in his work of infiltration for his Nazi superiors.

The Tribunal will remember, as Document 2219-PS, Exhibit Number USA-62, a letter from Seyss-Inquart to Göring of 14 July 1939, in which Seyss-Inquart makes this clear. It was in this letter also that he said:

"Yet, I know that I cling with unconquerable tenacity to the goal in which I believe; that is Greater Germany and the Führer."

The evidence which Mr. Alderman introduced told in detail the manner in which the Nazi conspirators carried out their assault on Austria. I do not intend to attempt to review any part of this evidence. I merely wish to refer the Tribunal to two documents which are particularly important in showing the part played by this defendant. I refer to the Rainer report to Gauleiter Bürckel, dated 6 July 1939, which relates the part played by the Austrian Nazi Party, the Defendant Seyss-Inquart and others between July 1934 and March 1938; and the astonishing record of telephone calls between the Defendant Göring or his agents in Berlin and Seyss-Inquart and others in Vienna on 11 March 1938. The Rainer report is Document 812-PS, Exhibit Number USA-61, and was read into

the Record beginning at Page 502 (Volume II, Page 370) of the English version and continuing for a number of pages thereafter. The transcript of the telephone calls is Document 2949-PS, Exhibit Number USA-76, and was introduced first at Page 566 (Volume II, Page 414) of the English Record.

Now, in order to supplement this and further to show that part played by Seyss-Inquart, I wish now to introduce in evidence the voluntary statement which Seyss-Inquart signed with advice of his counsel on 10 December 1945. This is Document 3425-PS, and I offer it as Exhibit Number USA-701.

In this statement Seyss-Inquart explains, from his point of view, his part in bringing about the Anschluss. I want to read first just a few sentences from the second paragraph on the first page. It states, and I quote:

> "In 1918 I became interested in the Anschluss of Austria with Germany. From that year on I worked, planned, and collaborated with others of a like mind to bring about a union of Austria with Germany. It was my desire to effect this union of the two countries in an evolutionary manner, and by legal means."

Skipping just a sentence or two:

> "I supported also the National Socialist Party as long as it was legal, because it declared itself with particular determination in favor of the Anschluss. From 1932 onwards I made financial contributions to this Party, but I discontinued financial support when it was declared illegal in 1934."

Then skipping down another couple of sentences:

> "From July 1936 onwards I endeavored to help the National Socialists to regain their legal status and, finally, to participate in the Austrian Government. During this time, particularly after the Party was forbidden in July 1934, I knew that the radical element of the Party was engaged in terroristic activities, such as attacks on railroads, bridges, telephone communications, *et cetera*. I knew that the governments of both Chancellors, Dollfuss and Schuschnigg, although they held in principle the same total German viewpoint were opposed to the Anschluss then because of the National Socialist regime in the Reich. I was sympathetic towards the efforts of the Austrian Nazi Party to gain political power and corresponding influence, because they were in favor of the Anschluss."

Now, briefly summarizing, the Tribunal will note that the defendant tells how his appointment as State Councillor, in May 1937, was the result of an agreement between Austria and Germany in July 1936, and that was the agreement which Rainer agreed Seyss-Inquart had helped to bring about; that his appointment as

Minister of the Interior and Security was one of the results of the agreement between Schuschnigg and Hitler at Berchtesgaden, 12 February 1938. And he admits that after the appointment and the agreement the Austrian National Socialists engaged in more and more widespread demonstrations. He tells how immediately after this appointment as Minister of the Interior and Security he went directly to Berlin and talked with Himmler and Hitler; and then, finally, he describes the events of that day, of the 11th of March 1938, when with the full support of German military power he became Chancellor.

I don't want to quote at length from that description, because the Tribunal knows already what happened. Reading from the middle of Page 3, he says:

> "At 10 o'clock in the morning Glaise-Horstenau and I went to the office of the Bundeskanzler and conferred for about 2 hours with Dr. Schuschnigg. We frankly told him all that we knew, particularly about the possibility of disturbances and of preparations by the Reich.
>
> "The Chancellor said that he would give his decision by 1400 hours. While I was with Glaise-Horstenau and Dr. Schuschnigg, I was repeatedly called to the telephone to speak to Göring."

THE PRESIDENT: Has this been read already?

LT. ATHERTON: No, Sir; this document has not been in before.

THE PRESIDENT: Very well.

LT. ATHERTON: "He informed . . . me that the agreement of 12 February had been cancelled and demanded Dr. Schuschnigg's resignation and my appointment as Chancellor."

The Tribunal has heard the other side of that story, the actual telephone conversations. And then, finally, the next two paragraphs, he tells how Keppler repeatedly urged him to send a telegram calling on Germany to send troops, and that at first he refused but finally acquiesced, and I now read from the next to the last paragraph:

> "As I am able to gather from the records available, I was requested about 10 p. m. to give my sanction to another somewhat altered telegram about which I informed President Miklas and Dr. Schuschnigg. Finally President Miklas appointed me Chancellor, and a little while later he approved my list of proposed ministers."

If the Tribunal will recall, the telegram in question called on Hitler, on behalf of the Provisional Austrian Government, to send German troops as soon as possible in order to support it in its task and help it to prevent bloodshed. The text of the telegram, as

printed in Volume 6 of the *Dokumente der Deutschen Politik,* appears as Document 2463-PS of the document book. It is interesting to note that the text of this telegram is substantially identical with that dictated by Göring over the phone to Keppler on the evening of the 11th of March, which appears on Page 575 (Volume II, Page 420) of the Record.

Now, on the next morning, again referring to the statement of the defendant, he admits that he telephoned Hitler...

THE TRIBUNAL (Mr. Biddle): Are you reading?

LT. ATHERTON: No, Sir; I am summarizing.

THE TRIBUNAL (Mr. Biddle): If you don't read it it is not in evidence.

LT. ATHERTON: In that event I will read a little further. I read now the last paragraph on Page 3:

> "During the morning of the 12th of March I had a telephone conversation with Hitler in which I suggested that, while German troops were entering Austria, Austrian troops, as a symbol, should march into the Reich. Hitler agreed to this suggestion and we agreed to meet in Linz, Upper Austria, later on that same day. I then flew to Linz with Himmler, who had arrived in Vienna from Berlin. I greeted Hitler on the balcony of the City Hall and said that Article 88 of the Treaty of St. Germain was now inoperative."

I have referred to the slavish manner in which, as the evidence has shown, Seyss-Inquart carried out orders conveyed to him by telephone from Göring on 11 March 1938 in his negotiations with Chancellor Schuschnigg and President Miklas. This relationship had in fact existed for some time. Early in January 1938, Seyss-Inquart, although he then held an important position in the Austrian Government, had already considered himself as holding a mandate from the Nazi conspirators in Berlin in his negotiations with his own Government. As evidence of the way in which this happened, I offer Document 3473-PS as Exhibit Number USA-581. This is a letter from Keppler to Göring, dated 6 January 1938, in which he states, and I quote:

> "My dear Colonel General:
>
> "Councillor of State, Dr. Seyss-Inquart, has sent a courier to me with the report that his negotiations with the Federal Chancellor, Dr. Schuschnigg, have run aground, so that he feels compelled to return the mandate entrusted to him. Dr. Seyss-Inquart desires to have a discussion with me regarding this before he acts accordingly.
>
> "May I ask your advice, whether at this moment such a step, entailing automatically also the resignation of the

Federal Minister Glaise von Horstenau, appears indicated or whether I should put forth efforts to postpone such an action."

The letter is signed by Keppler. On top of the original is a brief note apparently attached by the secretary of the Defendant Göring and dated Karinhall, 6 January 1938, reading as follows:

"Keppler should be told by telephone:

"1) He should do everything to avoid the resignation of Councillor of State Dr. Seyss-Inquart and State Minister Glaise von Horstenau. If some difficulties should arise, Seyss-Inquart should come to him first of all."

Now as a result of this directive, apparently telephoned to Keppler, Keppler, on the 8th of January 1938, wrote a letter to Seyss-Inquart. I now offer this letter, which is Document Number 3397-PS, in evidence as Exhibit Number USA-702. Keppler writes, and the Tribunal will remember that Keppler was, at that time, Secretary of State in charge of Austrian affairs of the German Government:

"Dear State Councillor:

"The other day I had a visit from Mr. Pl. who gave us a report of the state of affairs, and informed us that you are seriously considering the question of whether or not you are forced to hand back the mandate entrusted to you.

"I informed General Göring of the situation in writing, and G. just had me informed that I should try my utmost to prevent you, or any one else, from taking this step. This is also in the same vein as G.'s conversation with Dr. J. before Christmas; at any rate, G. requests you to undertake nothing of this nature under any circumstances before he himself has the opportunity of speaking with you once more.

"I can also inform you that G. is, furthermore, making an effort to speak to Ll., in order that certain improper conditions be eliminated by him."

Then the letter is signed by Keppler.

The two letters together, if the Tribunal please, show clearly enough the extent to which this defendant was a tool, the extent to which he was being used at that time by the conspirators in their planning for their assault on Austria. Now, once German troops were in Austria and Seyss-Inquart had become Chancellor, he lost no time carrying out the plan of his Nazi fellow-conspirators.

I next offer in evidence Document 3254-PS, which is a memorandum written by the Defendant Seyss-Inquart entitled, "The Austrian Question." It is Exhibit Number USA-704. I offer it only

because of the description which he gives of the manner in which he secured the passage of an Austrian act in annexing Austria to Germany. He said that on March 13 German officials brought him a proposal for inviting Austria into Germany. They reported that...

THE PRESIDENT: Are you quoting?

LT. ATHERTON: I now quote from the middle of Page 20 of the English text:

> "I called a meeting of the Council of Ministers, after having been told by Dr. Wolf that the Bundespräsident would make no difficulties in regard to that realization; he would return to his home in the meantime and would await me there. On my proposal the Council of Ministers assembled in the meantime adopted the draft bill to which my law section had made some formal modifications. The vote on the 20th of April had been planned already in the first draft. According to the provisions of the Constitution of 1 May 1934, any fundamental modification of the Constitution could be decided by the Council of Ministers with the approbation of the Bundespräsident. A vote or a confirmation by the nation was in no way provided for. In the event that the Bundespräsident should, for any reason, either resign his functions or be for some time unable to fulfill them, his prerogatives were to go over to the Bundeskanzler. I went to the Bundespräsident with Dr. Wolf. The President told me that he did not know whether this development would be of benefit to the Austrian nation but that he did not wish to interfere and preferred to resign his functions, so that all constitutional rights would come into my hands."

And then, skipping two or three sentences to the top of Page 21:

> "Thereafter I returned to Linz by car, where I arrived about midnight and reported to the Führer the accomplishment of the Anschluss law."

The same day Germany formally incorporated Austria into the Reich by a decree and declared it to be a province of the German Reich, in violation of Article 80 of the Treaty of Versailles. I ask the Court to take judicial notice of Document Number 2307-PS, which is the decree to this effect, published in 1938 *Reichsgesetzblatt*, Part I, Page 237.

If the Defendant Seyss-Inquart seems unduly modest as to the part which he played in undermining the Government to which he owed allegiance, his fellow conspirators were quick to recognize the importance of his contributions. In a speech on the 26th of March 1938, the Defendant Göring said—and I am reading now from

Document 3270-PS, Exhibit Number USA-703, which is an extract from the *Dokumente der Deutschen Politik,* Volume 6, Page 183:

> "A complete unanimity between the Führer and the National Socialist confidants inside of Austria existed.... If the National Socialists' rising succeeded so quickly and thoroughly and without bloodshed, it is first of all due to the calm, firm, prudent, and decisive attitude of the present Reichsstatthalter Seyss-Inquart and his confidants."

I want, before leaving the matter of the Anschluss, to stress this once more, because this was a time of great importance, and it was Seyss-Inquart who held the key position in this first open attack on another country. Had it not been for his part, as has been shown, things might have gone very differently, and if there were no other place where he was connected with the conspirators' plans for aggression, this would be sufficient to rank him with the foremost of the conspirators.

Now, passing on, Mr. Alderman has shown the way in which Seyss-Inquart co-operated with the conspirators in integrating Austria as fully as possible into the Reich, making its resources available to the Reich—its resources of wealth and its resources of manpower.

In furtherance of the conspirators' plan, Reichsstatthalter Seyss-Inquart for the first time demonstrated his talent for the persecution of Jewish citizens. In an address in Vienna on the 26th of March 1938, which will be found at Page 2326 (Volume IV, Page 552) of the Record, he recalls that Göring expressly commissioned this defendant, as Reichsstatthalter, to institute anti-Semitic measures.

And the Tribunal will remember from previous evidence the kind of wholesale larceny which this involved. So successfully did Seyss-Inquart perform his task that at the meeting of the Air Ministry under the chairmanship of the Defendant Göring on the 12th of November 1938, Fischböck, a member of Seyss-Inquart's official family, was able to relate the efficiency with which the civil administration in Austria dealt with the so-called "Jewish question." I refer to Document Number 1816-PS, Exhibit Number USA-261, and I am reading first from Page 14 of the English translation. The Tribunal will note that this is the third full paragraph from the bottom of Page 14:

> "Your Excellency: In this matter we have already a very complete plan for Austria. There are 12,000 Jewish artisans and 5,000 Jewish retail shops in Vienna. Before the seizure of power we had already a definite plan for tradesmen, regarding this total of 17,000 stores. Of the shops of the 12,000 artisans about 10,000 were to be closed definitely and 2,000 were to be kept open; 4,000 of the 5,000 retail stores

should be closed and 1,000 should be kept open, that is, Aryanized. According to this plan, between 3,000 and 3,500 of the total of 17,000 stores would be kept open, all others closed. This was decided following investigations in every single branch and according to local needs, in agreement with all competent authorities, and is ready for publication as soon as we receive the law which we requested in September. This law shall empower us to withdraw licenses from artisans quite independent of the Jewish question."

Göring said:

"I shall have this decree issued today."

Then, if the Tribunal please, I just wish to read one more sentence from the middle of the next page, in which Fischböck says:

"Out of 17,000 stores 12,000 or 14,000 would be closed and the remainder Aryanized or handed over to the Bureau of Trustees which is operated by the State."

And Göring replies:

"I have to say that this proposal is grand. This way the whole affair would be wound up in Vienna, one of the Jewish capitals, so to speak, by Christmas or by the end of the year."

The Defendant Funk then says:

"We can do the same thing over here."

In other words, Seyss-Inquart's so-called solution was so highly regarded that it was considered a model for the rest of the Reich.

The task of integrating Austria into the Reich being substantially complete, the Nazi conspirators were able to use Seyss-Inquart's expert services for the subjugation of other peoples. As an illustration I refer the Tribunal to Document D-571, Exhibit Number USA-112, which has already been read in evidence. The Tribunal will recall that from this document it appeared that on the 21st of March 1939 an official of the British Government reported from Prague to Viscount Halifax that a little earlier, on the 11th of March 1939, Seyss-Inquart, Bürckel, and five German generals attended a meeting of the Cabinet of the Slovak Government and told them that they should proclaim the independence of Slovakia, that Hitler had decided to settle the question of Czechoslovakia definitely (this has been read in court today) and that, unless they did as they were told, Hitler would disinterest himself in their fate. It just gives an indication of the manner in which this man continued to be busy in the aggressive plans of these Nazi conspirators.

Now early in September 1939, after the opening of the attack against Poland, Seyss-Inquart became Chief of the Civil Administration of south Poland. A few weeks later, on 12 October 1939,

Hitler promulgated a decree providing that territories occupied by German troops, except those incorporated within the German Reich, should be subject to the authority of the Governor General of the occupied Polish territories and he appointed the Defendant Frank as Governor General and the Defendant Seyss-Inquart as Deputy Governor General. This decree will be found in the 1939 *Reichsgesetzblatt,* Part I, Page 2077, and I ask the Tribunal to take judicial notice of it. Shortly thereafter, on 26 October 1939, Frank promulgated a decree establishing the administration of the occupied Polish territories, of which he was Governor. This decree is published in the *Dokumente der Deutschen Politik* and appears in the document book as 3468-PS. I am informed that this book, Volume 7, has also received the Exhibit Number 705 and I offer it as such.

Article 3 of the decree provided that the Chief of the Office of the Governor General and the Higher SS and Police Leader are directly subordinate to the Governor General and his Deputy. The Deputy, of course, was the Defendant Seyss-Inquart.

The significance of that provision is obvious in the light of the evidence which the Tribunal has heard and will hear. I ask the Tribunal to take judicial notice of it.

As Deputy Governor General of the Polish occupied territories, Seyss-Inquart seems to have had the job of setting up a German administration throughout this territory; that is, he worked under the Defendant Frank but did much of the work of interviewing the various local leaders, telling them what they should do. As an illustration I offer in evidence a report of a trip which Seyss-Inquart and his consultants took between the 17th and 22d of February 1939. This is our Document Number 2278-PS, and I offer it as Exhibit Number USA-706. If the Tribunal please, I have misstated that date or period. It was the 17th to the 22d of November 1939, in other words, shortly after the administration was set up. On the first page of the English translation—and I now quote from the second full paragraph—the following appears:

> "At 3:00 p. m. Reich Minister, Dr. Seyss-Inquart, addressed the department heads of the district chief and stated among other things that the chief guiding rule for carrying out German administration in the Government General must be solely the interests of the German Reich. A stern and inflexible administration must make the area of use to German economy; and, so that excessive clemency may be guarded against, the results of the intrusion of the Polish race into German territory must be brought to mind."

This report is too long, if the Tribunal please, to quote from at too great length; but if the Tribunal will turn over to Page 7,

I would like to read in some extracts of what occurred while the defendant was in Lublin. From the report it appears that the Defendant Seyss-Inquart after meeting the various local German administrative officers "then expounded the principles," and I am now quoting from the top of Page 7, "in accordance with which the administration in the 'Government' must be conducted." Then, skipping a sentence:

> "The resources and inhabitants of this country would have to be made of service to the Reich, and only within these limits could they prosper. Independent political thought should no longer be allowed to develop. The Vistula area might perhaps be still more important to German destiny than the Rhine. The Minister then gave as a guiding theme to the district leaders: 'We will further everything which is of service to the Reich and will put an end to everything which may harm the Reich.' Dr. Seyss-Inquart then added that the Governor General wished that those men who were fulfilling a task for the Reich here should receive a post with material benefits in keeping with their responsibility and achievements."

Then, if the Tribunal will turn over two more pages, the reporter is describing a sightseeing tour which was made to the village of Wlodawa, Cycow, and I quote:

> "Cycow is a German village . . ."—skipping down a couple of sentences—"Reich Minister Dr. Seyss-Inquart made a speech in which he pointed out that the fidelity of these Germans to their nationality now found its justification and reward through the strength of Adolf Hitler."

And then the next sentence, apparently thrown in by the reporter:

> "This district with its very marshy character could, according to District Chief Schmidt's deliberations, serve as a reservation for the Jews, a measure which might possibly lead to heavy mortality among the Jews."

THE PRESIDENT: We might break off here for 10 minutes.

[A recess was taken.]

LT. ATHERTON: If the Tribunal please, at the time the Tribunal rose, I was in the process of considering the functions of the Defendant Seyss-Inquart, his place as Deputy Governor General of Poland, between 1939 and 1940.

Now the Tribunal has already heard evidence of the atrocities which were perpetrated by the administration which Seyss-Inquart thus helped to create. The prosecutors for the Soviet Union will

present to the Tribunal more evidence of such atrocities. For our present purposes, to show the importance of the work which this man did to further the Nazi plan for the Government General of Poland, it is enough to quote a few words from the diary of the Defendant Frank.

On the occasion of what was apparently a farewell lunch to Seyss-Inquart, when he became Reich Commissioner of the Netherlands, Frank said—and I now quote from Document 3465-PS, Pages 510 and 511 of Volume 2, the 1940 volume of the diary, which is Exhibit Number USA-614:

> "I am extremely glad, Mr. Reich Commissioner and Reich Minister, to assure you, in this hour of your departure, that the months of our collaboration with you belong to the most precious memories of my life and that your work in the Government General will be remembered forever in the building of the coming world empire of the German nation."

Skipping down a little, if the Tribunal please, Frank went on to say:

> "In the construction of the Government General your name will forever take a place of honor as an originator of this organization and this state system.... I express our thanks, Mr. Reich Minister, for your collaboration and for your creative energy."

Then reading the last two or three sentences:

> "During the hard times common work united us here in the East, but it is at the same time the beginning point for a gigantic power development of the German Reich. Its perfection will show the development of the greatest energy unit which there ever was in the history of the world. In this work you were placed by the Führer, very effectively, in the most important position."

And to these remarks the Defendant Seyss-Inquart replied and I now quote from the second page of the translation:

> "I learned here a lot, many things which I did not understand before at all, and mainly on account of the initiative and firm leadership as I saw them in my friend Dr. Frank."

Then, skipping a sentence:

> "I will now go to the West, and I want to be quite open with you. With my whole heart I am present, because my whole attitude is one directed toward the East. In the East we have a National Socialist mission; over there, in the West, we have a function; that may be the difference."

I submit, if the Tribunal please, that the sentences which I have just read show clearly enough the conscious participation of the Defendant Seyss-Inquart in the Polish phase of the conspiracy.

Thus equipped with experience gained in Poland under the Defendant Frank, Seyss-Inquart was ready to undertake his last and most ambitious task, the enslavement of the Netherlands. The ruthless manner in which he performed it marks his position in the Nazi Common Plan or Conspiracy.

I ask the Tribunal first to take judicial notice of a decree of Hitler of 18 May 1940, which is found in 1940 *Reichsgesetzblatt*, Part I, Page 778. The translation will be found in the book as Document 1376-PS. By Section 1 of this decree it is provided that:

"The Reich Commissioner is protector of the interests of the Reich and will represent the supreme power of the Government within the civil sphere. He will be directly subordinated to me and will receive directives and orders from me."

Section 3 provides that:

"The Reich Commissioner may use German Police forces to carry out his orders. The German Police forces are at the disposal of the German military commander in the Netherlands insofar as military necessities require this and if the missions of the Reich Commissioner permit it."

Then by Paragraph or Section 5 of the law it is provided that the Reich Commissioner may promulgate laws by decree, such orders to be published in the *Verordnungsblatt* for the occupied territory of the Netherlands, a publication which I shall hereafter refer to merely as the *Verordnungsblatt*.

On the 29th of May 1940, acting within these powers, the defendant promulgated an order covering the exercise of governmental authority in the Netherlands and this appears as Document 3588-PS in the document book. I ask the Tribunal to take judicial notice of its contents.

That will contain two decrees. I am now referring to the first one.

By Section 1 of this decree the defendant modestly purports to assume, to the extent required for the fulfillment of his duties, "all powers, privileges, and rights heretofore vested in the King and the Government, in accordance with the constitution and the laws of the Netherlands." That is a direct quotation.

And then Section 5 of the order entrusts the maintenance of public peace, safety, and order to the Netherlands Police force unless the Reich Commissioner calls on German SS or Police forces for the enforcement of his orders. It further provides that the investigation and combatting of all activities hostile to the Reich and Germanism shall be the concern of the German Police force.

On June 3, 1940, a further decree was promulgated concerning the organization and establishment of the Office of the Reich Commissioner. This decree is found in the *Verordnungsblatt* for 1940,

Issue 1, at Page 11, and is the second decree under Document 3588-PS. This decree provided for general commissioners on the staff of the Reich Commissioner to head four enumerated sections, one of which, the Superior SS and Police Chief, was to head the section for public safety. It was provided by Section 5 of this decree that:

> "This official should command the units of the military SS and German Police forces transferred to the occupied Netherlands territories, supervise the Netherlands central and municipal police forces and issue to them necessary orders."

Section 11 provided that the Reich Commissioner alone . . .

THE PRESIDENT: Lieutenant Atherton, don't you think that we can assume that the Defendant Seyss-Inquart, who had been appointed to administer the occupied territory of the Netherlands, had all these powers and that you can turn your attention to what he did under those powers?

LT. ATHERTON: Yes, Sir; I will do that but I wanted to make plain to the Tribunal, because of the peculiar set-up of this German Police force, the fact that he was granted the power to give orders to them, and not only that, but that he customarily did. If that point is made clear, as I believe it is, in these two decrees, I will pass on to the next matter.

THE PRESIDENT: I think the Tribunal has no doubt that an officer under the Reich who had got the powers of the administrator of an occupied territory could make use of the police forces.

LT. ATHERTON: Yes, Sir.

THE PRESIDENT: It is really a matter that we should be prepared to assume until it is proved to the contrary.

LT. ATHERTON: I agree, Sir.

THE PRESIDENT: We would wish you to turn attention to show what he did, under those powers, which constitute crimes.

LT. ATHERTON: Yes, Sir. It is not our intention at this time to go into the crimes against persons and property which the Defendant Seyss-Inquart is responsible for in the Netherlands in any detail, because evidence of Nazi barbarity in this country is to be presented by our associates, the prosecutors for the French Republic. It is only our purpose to show a few illustrations and to give some idea of the scope of this defendant's activities and his responsibilities as evidence of his part in the execution of the Nazis' Common Plan or Conspiracy, which it is our part to prove.

Now, in the first place, there will be much evidence to show that the defendant was responsible for widespread spoliation of property. Merely as an illustration of the way in which he was

implicated in the smallest parts of this, I offer in evidence Document 176-PS, as Exhibit Number USA-707.

This document is a report on the activities of the "Task Force Netherlands," a part of the Einsatzstab Rosenberg, on which the Tribunal has already heard evidence. Quoting from the first page of this report, the first sentence:

> "The Task Force Netherlands of the Einsatzstab Reichsleiter Rosenberg began its work in agreement with the competent representative of the Reich Commissioner during the first days of September 1940."

The report then proceeds to detail the property taken from Masonic lodges and similar institutions to a considerable extent. Reading from—I believe it is Page 3 of this report, the very bottom:

> "An extremely precious library, containing invaluable works on Sanskrit, was confiscated, when the 'Theosophic Society' in Amsterdam was dissolved, and packed into 96 cases.
>
> "A number of smaller libraries belonging to the Spiritists, the Esperanto movement, the Bellamy movement, the International Bible Students, and various other minor international organizations were packed into seven cases; texts belonging to various minor Jewish organizations were packed into four cases; and a library of the 'Anthroposophic Society' in Amsterdam into three.
>
> "It is safe to say that the stocks of books confiscated, packed, and so far sent to Germany by the task force are of extraordinary scientific value and will contribute an integral part of the library of the 'Hohe Schule.'
>
> "The money value of these libraries . . . can only be estimated but must surely amount to from 30 million to 40 million Reichsmark."

Then, quoting from the very end of the report:

> "The task force, in executing the aforementioned tasks, is bound strictly to the pace set by the Reich Commissioner for the handling of the Jewish questions and those of the international organizations."

As Reich Commissioner it was one of the functions of the Defendant Seyss-Inquart to supervise the execution of the conspirators' program for deportation of Dutch citizens to Germany for slave labor. The Tribunal will recall that Mr. Dodd read into evidence at Page 1372 (Volume III, Page 477) a portion of a transcript of an interrogation of the Defendant Sauckel, on 5 October 1945, in which it appeared that the quotas for the workers for Holland were agreed upon and then the numbers

given to the Reich Commissioner Seyss-Inquart to fulfill; and after the quota was given to Seyss-Inquart, it was his mission to fulfill it with the aid of Sauckel's representative. And then the Tribunal will recall that at Page 1310 (Volume III, Page 433) of the Record Mr. Dodd, having shown the Defendant Seyss-Inquart's part in recruitment for slave labor in this fashion and his responsibility for it, read into the Record, Page 1310 (Volume III, Page 433), some portions from Document 1726-PS, Exhibit Number USA-195, which showed the numbers of Netherlands citizens deported to the Reich at various times. Since that is all a matter of record, I will not go into it again.

In the Netherlands, as in Austria and elsewhere, Seyss-Inquart was relentless in his treatment of Jewish Netherlanders. To illustrate his attitude, I offer in evidence Document 3430-PS, which consists of extracts from the defendant's book *Four Years in the Netherlands* (Collected Speeches). It becomes Exhibit Number USA-708. In a speech in Amsterdam on 13 March 1941—and I am now quoting from Page 57 of the original book, the last extract on the translation, Seyss-Inquart said:

> "The Jews, for us, are not Dutch. They are those enemies with whom we can come to neither an armistice nor to peace. This applies here, if you wish, for the duration of the occupation. Do not expect an order from me which stipulates this, except regulations concerning police matters. We will beat the Jews wherever we meet them, and those who join them must bear the consequences. The Führer declared that the Jews have played their final act in Europe, and therefore they have played their final act."

Now, as promised, the Defendant Seyss-Inquart proceeded to promulgate the long series of decrees which first threatened to deprive the Jewish people in the Netherlands of their property, of their rights, and degraded them to something lower than the lowest, which eventually resulted in their deportation to Poland. These decrees, all signed by Seyss-Inquart, are collected in our brief, Page 65. I ask the Court to take judicial notice of them. By way of illustration, the first to which I wish to refer appears in the document book as 3333-PS, and it is a decree of 26 October 1940, requiring the registration of businesses belonging to Jews as defined in the decree, including partnerships or corporations in which Jews owned a substantial interest. You have seen that this type of law was the inevitable prelude to mass confiscation of the property of Jews under the Nazi administration. In a law found in *Verordnungsblatt*, Volume Number 6, Page 99, 11 February 1941, Document 3325-PS, Dutch universities and colleges were limited in the registration of Jewish students. This of itself does not seem

important, but it is a part of the program to take away from these people their rights and degrade them. Document Number 3328-PS is a decree published in *Verordnungsblatt* Number 44 at Page 841, of 22 October 1941. This prevented the Jews from exercising any profession or trade without authorization from administrative authorities and permitted such authorities to order the termination of any employment contract concerning Jews.

As a final illustration I refer in passing to Document 3336-PS, a decree published in the *Verordnungsblatt,* Issue 13, Page 289, and dated 21 May 1942. This decree required all Jews to make written declaration of claims of any kind, under which they might be beneficiaries, at a banking firm known as Lippmann-Rosenthal and Company, which was actually an agency of the Reich at Amsterdam. The decree gave the bank, this named bank, all rights to dispose of the claim and provided that payment to the bank should be released in full. This type of Nazi decree was, of course, a forerunner of ultimate deportation to the East and allowed the Nazis to snatch the insurance.

Evidence of the success of this defendant's efforts to annihilate all Jews in the Netherlands has already been read into the Record. The court will find that Major Walsh—again reading from the report of the Netherlands Government, Exhibit Number USA-195, at Page 1497 (Volume III, Page 565)—showed that out of 140,000 Jewish Netherlanders, 117,000 were deported, over 115,000 of them to Poland, over 80 percent. The evidence has shown what was the probable fate of most of these people, and I shan't dwell on it further.

Finally, I want to say a few words about the responsibility of this defendant for the systematic terror practiced against the inhabitants of the occupied territory by the Nazis throughout the occupation. Referring again to the collected speeches in Document 3430-PS, on 29 January 1943, the defendant left little doubt of his point of view. He said, and I quote:

> "It is also clear, now more than ever, that every resistance which is directed against this fight for existence must be suppressed. Some time ago the representatives of the churches had written to the Wehrmacht commander and to me, and they presented their ideas in regard to the execution of death sentences which the Wehrmacht commander announced in the meantime. To this I can say only the following: At the moment in which our men, fathers, and sons with iron determination look towards their fate in the East and unflinchingly and steadfastly perform their highest pledge, it is unbearable to tolerate conspiracies whose goal is to weaken the rear of this eastern front. Whoever dares this must be

annihilated. We must be severe and become even more severe against our opponents. This is the command of a relentless sequence of events and for us, perhaps, inhumanly hard but our holy duty. We remain human because we do not torture our opponents. We must remain hard in annihilating them."

I do not offer any evidence of the commission of these crimes, because that is to be done by prosecutors of the French Republic. But the position of the Defendant Seyss-Inquart as Reich Commissioner, the control which he exercised, which has been shown, particularly over the SS and Police, and the attitude of the man himself will make clear his authorization and participation in the crimes to be proved and are a further indication of his part in the common plan.

Seyss-Inquart supported the Nazi Party as early as 1931. He was a traitor to the government to which he owed allegiance and in which he held high office. With full knowledge of the ultimate purposes of the conspirators he bent every effort to integrate Austria into the Reich and to make its resources and manpower, as well as its strategic position, available for the Nazi war machine. He performed these tasks with such ruthless efficiency that he was chosen thereafter for key positions in the enslavement of Poland and the Netherlands—the positions which he filled with such satisfaction to his superiors, that ultimately he came to be one of the foremost and most detested leaders in this common plan. As such, under Article 6 of the Charter, he is responsible for all acts performed by any persons in the execution of that plan. As such, he is guilty of the crimes charged to him under Counts One and Two of the Indictment.

I wish to introduce to the Tribunal at this time Dr. Robert M. W. Kempner, who will represent the Prosecution in the next phase of the case dealing with the Defendant Frick.

DR. ROBERT M. W. KEMPNER (Assistant Trial Counsel for the United States): May it please the Tribunal: There have been distributed to the Tribunal and to all Defense Counsel, trial brief and documents relating to the Defendant Frick. The trial brief prepared by my colleague, Karl Lachmann, sets forth, in great detail, evidence, in the form of both documents and decrees, against the Defendant Wilhelm Frick. English translations of the evidentiary material referred to in the trial brief are included in the document book prepared by my colleague Lieutenant Felton. This book has been marked "LL."

Defendant Frick's great contribution to the Nazi conspiracy was in the field of governmental administration. He was the administrative brain who devised the machinery of state for Nazism, who geared that machinery for aggressive war.

In the course of his active participation in the Nazi conspiracy, from 1923 to 1945, the Defendant Frick occupied a number of important positions. Document 2978-PS, which has previously been introduced as Exhibit Number USA-8, lists the positions in detail. The original was signed by the Defendant Frick on 14 November 1945. I do not repeat these positions; they are known to the Court. Frick's past activity on behalf of the Nazi conspirators was his participation in promoting their rise to power. Frick betrayed, in his capacity as law enforcement official of the Bavarian Government, his own Bavarian Government by participating in the Munich Beer Hall Putsch of November 8, 1923. Frick was tried and sentenced together with Hitler on a charge of complicity in treason. His position in the Putsch is described in a record of the proceeding called *The Hitler Trial before the Peoples' Court in Munich,* published in Munich in 1924.

I will ask this Tribunal to take judicial notice of this record of these proceedings. Hitler's appreciation of Frick's assistance is evidenced by the fact that he honored Frick by mentioning his name in *Mein Kampf.* Only two other Defendants in this proceeding share this honor, namely, Hess and Streicher. I ask the Tribunal to take judicial notice of the favorable mentioning of Defendant Frick in *Mein Kampf,* German edition, 1933, Page 403.

During the period after the Putsch, Frick made further contributions to the Nazi conspiracy. I should like to refer briefly to Document 2513-PS, an excerpt of Pages 36 and 38 from a report entitled, "The National Socialist Workers Party as an Association Hostile to the State and to the Republican Form of Government and Guilty of Treasonable Activity." This report has been previously introduced as Document 2513-PS, Exhibit Number USA-235. It is an official report of the criminal activities of Hitler, Frick, and other Nazis prepared by the Prussian Ministry of the Interior in 1930. It states that Frick, next to Hitler, can be regarded as the most influential representative of the Nazi Party at that time. This document reported that at the 1927 Party Congress in Nuremberg Frick said that the Reichstag would first be misused by the Nazi Party, would then be abolished, and that its abolition would open the way for racial dictatorship. The document also reported that Frick stated in a speech in 1929 at Pyritz that this fateful struggle will first be taken up with the ballot, but this cannot continue indefinitely, for history has taught us that in battle blood must be shed and iron broken.

Back in 1927 Frick's prominent role in helping to bring the Nazis to power was recognized when, on 23 January 1930, he was appointed Minister of the Interior and Education in the State of Thuringia.

THE PRESIDENT: Are you passing from that document now? I thought you were reading from 2513.

DR. KEMPNER: No, this is an introduction of the next document.

THE PRESIDENT: I see, Dr. Kempner.

DR. KEMPNER: I just started to refer to the fact that Adolf Hitler at this time, when Frick was Minister of the Interior in the State of Thuringia, was an undesirable alien, not a German citizen. In his capacity as Minister of Thuringia the Defendant Frick began his manipulations to provide Adolf Hitler, the undesirable alien, with German citizenship, an essential step toward the realization of the Nazi conspiracy.

This lack of German citizenship was highly detrimental to the cause of the Nazi Party because, as an alien, Hitler could not become candidate for the Reich Presidency in Germany.

It was the Defendant Frick who solved this problem by an administrative maneuver. We now introduce in evidence Document 3564-PS, Exhibit Number USA-709. This document is an affidavit by Otto Meissner of 27 December 1945. Meissner was former state secretary and chief of Hitler's Presidential Chancellery. The last two sentences of this affidavit read as follows:

> "Frick also, in collaboration with Klagges, Minister of Brunswick, succeeded in naturalizing Hitler as a German citizen in 1932 by having him appointed a Brunswick government official Regierungsrat. This was done in order to make it possible for Hitler to run as a candidate for the office of President in the Reich."

When Hitler came to power on 30 January 1933, Frick was duly awarded a prominent post in the new regime as Reich Minister of the Interior. In this capacity he became responsible for the establishment of totalitarian control over Germany, an indispensable prerequisite for the preparation of aggressive warfare. Frick assumed responsibility for the realization of a large part of the Nazi conspirators' program both through administration and legislation.

I must explain very briefly the significance of the Ministry of the Interior in the Nazi State to show the contribution made by Frick to the conspiracy. I offer, as evidence of Frick's extensive jurisdiction as Minister of the Interior, Document 3475-PS, Exhibit Number USA-710, which is part of the official German manual for administrative officials, dated 1943. I ask the Tribunal to take judicial notice of Frick's jurisdiction mentioned in this document. The names of the men who, according to this document, worked under Frick's supervision, and I stress this point "worked under Frick's supervision," are symbolic. They are listed on Page 1 of the English translation. Here we find among the subordinates of

Frick: Reich Health Leader, Dr. Conti; Reichsführer SS and Chief of the German Police, Heinrich Himmler; and Reich Labor Service leader, Hierl. This document shows Frick as supreme commander of three important pillars of the Nazi State: the Nazi health service, the Nazi police system, and the Nazi labor service.

The wide variety of Frick's activities as Reich Minister of the Interior can be judged from the following catalogue of his functions, enumerated on the following pages of the manual. He had final authority over constitutional questions, drafted legislation, had jurisdiction over governmental administration and civil defense, and was final arbiter in all questions concerning race and citizenship. The manual also lists sections of the Ministry concerned with administrative problems for the occupied territories and annexed territories, the "New Order" in the Southeast, the Protectorate of Bohemia and Moravia, and the "New Order" in the East. He also had full jurisdiction in the field of civil service, including such matters as appointment, tenure, promotion, and dismissal.

The Defendant Frick used his wide powers as Reich Minister of the Interior to advance the cause of the Nazi conspiracy. To accomplish this purpose, he drafted and signed the laws and decrees which abolished the autonomous state governments, the autonomous local governments, and the political parties in Germany other than the Nazi Party.

In 1933 and 1934, the first 2 years of the Nazi regime, Frick signed about 235 laws or decrees, all of which are published in the *Reichsgesetzblatt.* I should like to refer briefly to a few of the more important laws and decrees, such as the law of 14 July 1933 outlawing all political parties other than the Nazi Party, *Reichsgesetzblatt,* 1933, Part I, Page 479, Document 1388(a)-PS; then the law of 1 December 1933 securing the unity of Party and State, *Reichsgesetzblatt,* 1933, Part I, Page 1016, Document 1395-PS; the law of 30 January 1934 transferring the sovereignty of the German states to the Reich, *Reichsgesetzblatt,* 1934, Part I, Page 75, Document 3068-PS; the German Municipality Act of 30 January 1935, which gave Frick's Ministry of the Interior final authority to appoint and dismiss all mayors of municipalities throughout Germany, *Reichsgesetzblatt,* 1935, Part I, Page 49, Document 2008-PS; and, finally, the Nazi Civil Service Act of 7 April 1933 which provided that all civil servants must be trustworthy as defined by Nazi standards and also must meet the Nazi racial requirements, published in *Reichsgesetzblatt,* 1933, Part I, Page 175, Document 1397-PS.

One category of Frick's activities, however, deserves special notice; that is, the crushing of opposition by legally camouflaged

police terror. This is shown by the book *Dr. Wilhelm Frick and His Ministry,* our Document 3119-PS, which is in evidence as Exhibit Number USA-711, written by Frick's undersecretary and co-conspirator, Hans Pfundtner, apparently written to establish Frick's eternal contribution to the creation of the Nazis' thousand-year Reich. It states, and I quote briefly from Page 4, paragraph 4, of the English translation:

> "While Marxism in Prussia was crushed by the hard fist of the Prussian Prime Minister Hermann Göring and a gigantic wave of propaganda was initiated for the Reichstag elections of 5 March 1933, Dr. Frick prepared the complete seizure of power in all states of the Reich. All at once the political opposition disappeared. All at once the Main"—River—"line was eliminated; from this time on only one will and one leadership reigned in the German Reich."

How was this done? On February 28, 1933, the day after the Reichstag fire, civil rights in Germany were abolished. This decree was published in the *Reichsgesetzblatt,* 1933, Page 83; and an English translation of it appears in the document book as 1390-PS. I refer to this decree at this time because it carries the signature of the Reich Minister of the Interior Frick. And now something important. It is stated at the beginning of the decree, which was published on the morning after the Reichstag fire, that the suspension of civil rights is decreed as a defense measure against Communist acts of violence endangering the State. At the time of publication of this decree, the Nazi Government announced that a thorough investigation had proven that the Communists had set fire to the Reichstag building. I do not intend to go into the controversial issue of who set fire to the Reichstag, but I should like to offer proof that the official Nazi statement that the Communists were responsible for the fire was issued without any investigation and that the preamble of the decree which had Frick's signature was a mere subterfuge.

I offer in evidence a very short excerpt of an interrogation of Defendant Göring, dated October 13, 1945, our Document 3593-PS, Exhibit Number USA-712, and I should like to read the following brief portion, beginning on Page 4:

> "My question to Göring: 'How could you tell your press agent, 1 hour after the Reichstag caught fire, that the Communists did it, without investigation?'
>
> "Göring's answer: 'Did the public relations officer say that at that time?'
>
> "My answer: 'Yes. He said you said it.'
>
> "Göring: 'It is possible when I came to the Reichstag the Führer and his gentlemen were there. I was doubtful at that

time, but it was their opinion that the Communists had started the fire.'

"My question: 'But you were the highest law enforcement official in a certain sense. Daluege was your subordinate. Looking back at it now, and not in the excitement that was there once, wasn't it too early to say without any investigation that the Communists had started the fire?'

"Göring: 'Yes, that is possible, but the Führer wanted it this way.'

"Question: 'Why did the Führer want to issue at once a statement that the Communists had started the fire?'

"Answer: 'He was convinced of it.'

"Question: 'It is right when I say he was convinced without having any evidence or any proof of that at this moment?'

"Göring: 'That is right, but you must take into account that at that time the Communist activity was extremely strong, that our new government as such was not very secure.'"

THE PRESIDENT: Dr. Kempner, what has that got to do with Frick?

DR. KEMPNER: He signed the decree, as I said before, abolishing civil liberties on the morning after, pointing out that there was a Communist danger. On the other side, this Communist danger was a mere subterfuge and was one of the things which finally led to the second World War.

The Defendant Frick not only abolished civil liberties within Germany, but he also became the organizer of the huge police network of the Nazi Reich.

Parenthetically, I may state that before this time there was no unified Reich police system; the individual German states had police forces of their own.

I ask the Tribunal to take judicial notice of the decree of June 17, 1936, signed by Frick and published in the *Reichsgesetzblatt,* 1936, Page 487. An English translation of this decree is in the document book under Document Number 2073-PS.

Section 1 of this Frick decree reads as follows:

"For the unification of police duties in the Reich, a Chief of German Police is appointed in the Reich Ministry of the Interior, to whom is assigned the direction and conduct of all police affairs...."

And from Section 2 we learn that it was the Defendant Frick and Hitler, the signers of the decree, who appointed Himmler as Chief of the German Police.

Paragraph 2 of Section 2 of the decree states that Himmler was, and I quote, "subordinated individually and directly to the Reich and Prussian Minister of the Interior." And of course that is Frick.

The official chart of the German Police system, Document 1852-PS, which has already been introduced into evidence as Exhibit Number USA-449, clearly shows the position of the Reich Minister of the Interior, Frick, as the supreme commander of the entire German Police system, including the notorious RSHA, of which the Defendant Kaltenbrunner became chief, under Frick, in January 1943.

The Defendant Frick used his authority over the newly centralized police system for the promotion of the Nazi conspiracy. The Tribunal may take judicial notice of Frick's decree of September 20, 1936, published in the *Ministerial Gazette of the Reich (Ministerialblatt des Reichs- und Preussischen Ministeriums des Innern),* 1936, Page 1343, Document 2245-PS.

In this decree Frick reserved for himself the authority to appoint inspectors of the security police, subordinated them to his district governors, the Oberpräsidenten, and ordered them to have a close co-operation with the Party and the Armed Forces.

Another example of the use of his activities in the police sphere is in his ordinance of March 18, 1938, concerning the Austrian Anschluss, in which Frick authorized the Reichsführer of the SS and Police, Himmler, to take security measures in Austria without regard to previous legal limitations. This decree is published in the *Reichsgesetzblatt,* 1938, Page 262, and appears in the document book as Document Number 1437-PS.

I shall not here repeat the evidence concerning the criminal activities of the German police, over which the Defendant Frick had supreme authority. I should simply like to refer the Tribunal to the presentations already made on the subject of concentration camps and the Gestapo, two of the police institutions under Frick's jurisdiction. But I should like to show that not only Himmler's subordinate machine but also Frick's ministry itself was familiar with these institutions. Therefore, I now offer into evidence Document 1643-PS, as Exhibit Number USA-713.

This document is a synopsis of correspondence between the Reich Ministry of the Interior and its field offices, from November 1942 through August 1943, on the subject of the legal aspects of the confiscation of property by the SS for the enlargement of the concentration camp at Auschwitz. At the bottom of Page 1 and the top of Page 2 of the English translation there appears a synopsis of the minutes of a meeting held on December 17 and 18, 1942, concerning the confiscation of this property. These minutes indicate that a further discussion was to be held on the subject

on 21 December 1942, between the representatives of the Reich Minister of the Interior and the Reichsführer SS. On Page 2 there appears also a summary of a teletype letter dated January 22, 1943 from Dr. Hoffmann, representing the Reich Minister of the Interior, to the District Governor in Katowice.

The summary begins as follows, and I quote:

"The territory of the Auschwitz Concentration Camp will be changed into an independent estate"—which means an administrative territory of itself.

The fact that the Defendant Frick demonstrated personal interest in a concentration camp became known through the testimony of Dr. Blaha, to which I should like to refer the Tribunal, in which he testified that Frick visited the Dachau Camp in 1943.

The next aspect of the participation of the Defendant Frick in the Nazi conspiracy concerns his promotion of racial persecution and racism, involving the wiping out of the Jews.

In addition to the many other responsibilities of Frick, this vast administrative empire covered the entire area of the enactment and administration of racial legislation.

I refer again to Document 3475-PS, *The Manual for German Administrative Officials,* previously introduced, and I refer to Pages 2 and 4, showing that Frick was administrative and legislative guardian and protector of the German race.

In order to avoid any repetition, I shall not quote the various acts drafted by Frick's ministry against the Jews. The presentation concerning persecution of the Jews made by Major Walsh before the Christmas recess listed a number of decrees signed by Frick, including the infamous Nuremberg Laws and the laws depriving Jews of their property, their rights of citizenship and stigmatizing them with the Yellow Star.

But the activities of Frick's ministry were not restricted to the commission of such crimes, camouflaged in the form of legislation. The police field offices, subordinate to Frick, participated in the organization of such terroristic activities as the pogrom of November 9, 1938.

I refer to a series of Heydrich's orders and reports concerning the organization of these pogroms or, as they were termed by Heydrich, "spontaneous riots," Documents 3051-PS and 3058-PS, which are already in evidence as Exhibit Numbers USA-240 and 508.

Three days after this pogrom of 9 November 1938 Frick, his undersecretary Stuckart, and his subordinates, Heydrich and Daluege, participated in a conference on the Jewish question under the chairmanship of the Defendant Göring. At this meeting were discussed the various measures which the individual governmental

departments should initiate against the Jews. A stenographic record of this meeting, Document 1816-PS, is already in evidence as Exhibit Number USA-261. May I briefly refer to the bottom of Page 23 of the English translation, where we find Göring's concluding remarks:

"Also the Ministry of the Interior and the Police will have to think over what measures have to be taken."

This remark shows that Göring regarded it as Frick's duty to follow up by administrative devices the pogrom, organized by Frick's own subordinates.

In the foregoing presentation we have shown that the Defendant Frick, as a member of the conspiracy, devised the machinery of the State for Nazism. In the following presentation we will show that Frick actively supported the preparation of the Nazi State for war.

May we begin this portion by showing that Frick was in sympathy with the flagrant violations by Germany of her treaties of non-aggression. This is clearly shown by the affidavit of Ambassador Messersmith, Document 2385-PS, previously introduced as Exhibit Number USA-68. I shall quote only one sentence from this affidavit, Page 4, line 10. It reads as follows:

"High-ranking Nazis with whom I had to maintain official contact, particularly men such as Göring, Goebbels, Ley, Frick, Frank, Darré, and others repeatedly scoffed at my position as to the binding character of treaties and openly stated to me that Germany would observe her international undertakings only so long as it suited Germany's interests to do so."

In May 1935, by his appointment as Plenipotentiary General for the administration of the Reich, Frick became one of the big three in charge of preparing Germany for war. The other two members of the triumvirate were the Chief of the OKW and the Plenipotentiary General for War Economy, at that time the Defendant Schacht. Frick has admitted that he held the position of Plenipotentiary General since 21 May 1935, the date of the original secret Reich Defense Law. I refer to his statement of positions, Document 2978-PS, Exhibit Number USA-8.

His functions as Plenipotentiary General are outlined in the Reich Defense Law of 4 September 1938, which was classified top military secret and appears in our document book as 2194-PS, Exhibit Number USA-36. Under this law of 1938, Paragraph 3, tremendous power was concentrated in the hands of Frick as Plenipotentiary General for Administration. In addition to the offices under his supervision as Minister of the Interior, the law made the following offices subordinate to Frick for the purpose of

carrying out the directives of the law: Reich Minister of Justice, Reich Minister of Education, Reich Minister for Religious Matters, and the Reich Minister for Planning.

Frick admitted the significant part he played in the preparations for war as a member of the triumvirate in a speech made on 7 March 1940 at the University of Freiburg. Excerpts appear in the document book as Document Number 2608-PS, which I offer in evidence as Exhibit Number USA-714. I think it would be helpful if the Tribunal would allow me to read two short paragraphs, beginning at the top of Page 1 of the English translation:

> "The organization of the non-military national defense fits organically into the entire structure of the National Socialist Government and administration. This state of affairs is not exceptional, but a necessary and planned part of the National Socialist order. Thus, the conversion of our administration and economy to wartime conditions has been accomplished very quickly and without any friction—avoiding the otherwise very dangerous change of the entire structure of the State.
>
> "The planned preparation of the administration for the possibility of a war has already been carried out during peacetime. For this purpose the Führer appointed a Plenipotentiary General for the Reich Administration and a Plenipotentiary General for War Economy."

Many of Frick's contributions to the preparation of the German State for war are outlined in detail in the book *Dr. Wilhelm Frick and His Ministry,* which is already in evidence as Document 3119-PS. May I quote two short sentences from the top of Page 3 of the English translation:

> "Besides, the leading co-operation of the Reich Minister of the Interior in the important field of 'military legislation,' and thus in the establishment of our Armed Forces, has to be particularly emphasized. After all, the Reich Minister of the Interior is the civilian minister of the defense of the country, who in this capacity, together with the Reich War Minister, not only signed the military law of 21 May 1935 but, in his capacity as Supreme Chief of the General and Inner Administration as well as of the Police, has also received from the Führer and Reich Chancellor important powers in the fields of the recruitment system and of military supervision."

I have previously mentioned that as Minister of the Interior Frick was responsible for the administrative policy in occupied and annexed territories. It was his ministry which introduced the new German order throughout the vast territory of Europe occupied by the German Armed Forces, and the Defendant Frick exercised these powers. I request that the Tribunal take judicial notice of three

decrees signed by Frick, introducing German law into Austria, the Sudetenland, and the Government General of Poland respectively:

Decree of 13 March 1938, *Reichsgesetzblatt*, 1938, Part I, Page 237, Article 8, Document 2307-PS; decree of 1 October 1938, *Reichsgesetzblatt*, 1938, Part I, Page 1331, Paragraph 8, Document 3073-PS; decree of 12 October 1939, *Reichsgesetzblatt*, 1939, Part I, Page 2077, Paragraph 8 (1), Document 3079-PS.

Frick's ministry also arranged the selection and assignment of hundreds of occupation officials for the Soviet territory even before the invasion. This fact appears in a report by the Defendant Rosenberg of April 1941 on preparations for the administration of occupied territory in the East. May I refer to Page 2, Paragraph 2, of Document 1039-PS, which has previously been introduced as Exhibit Number USA-146.

One category of Frick's contribution to the planning of, and preparation for, aggressive war deserves special notice. This is the systematic killing of persons regarded as useless to the German war machine, such as the insane, the crippled, and aged, and foreign laborers who were no longer able to work. These killings were carried out in nursing homes, hospitals, and asylums. The Tribunal will recall that the Defendant Frick, in his capacity as Reich Minister of the Interior, had jurisdiction over public health and all institutions. May I refer again briefly to the *Manual for German Administrative Officials*, Document 3475-PS, this time to Pages 3, 4, and 7 of the English partial translation. There the following are mentioned as Frick's jurisdictional areas: "Health Administration," "Social Hygiene," "Racial Improvement and Eugenics," "Reich Plenipotentiary for Sanatoria and Nursing Homes."

As proof that Frick's jurisdiction covered the death cases in these institutions, I now offer in evidence Document 621-PS, Exhibit Number USA-715. This is a letter of 2 October 1940 from the Chief of the Reich Chancellery, Dr. Lammers, to the Reich Minister of Justice, informing the latter that material concerning the death of inmates of nursing homes had been transmitted to the Reich Minister of the Interior for further action. In fact, the Defendant Frick not only had jurisdiction of these establishments, but he was one of the originators of a secret law organizing the murdering.

I now offer Document 1556-PS, Exhibit Number USA-716. This is an official report, dated December 1941, of the Czechoslovak War Crimes Commission entitled, "Detailed Statement on the Murdering of Ill and Aged People in Germany." I should like to quote very brief excerpts from this report. Paragraphs 1, 2, and 3 read as follows:

"1) The murdering can be traced back to a secret law which was released some time in the summer of 1940.

"2) Besides the Chief Physician of the Reich, Dr. L. Conti, the Reichsführer SS Himmler, the Reich Minister of the Interior Dr. Frick, as well as other men, the following participated in the introduction of this secret law: . . ."—Other names listed.

"3) As I have already stated, there were—after careful calculation—at least 200,000, mainly mentally deficient, imbeciles, besides neurological cases and medically unfit people—these were not only incurable cases—and at least 75,000 aged people."

The most striking example of the continued killings in these institutions, which were under Frick's jurisdiction and operated under the order of which Frick was a co-author, is the famous Hadamar case.

Your Honor, may I ask you whether I may have 10 more minutes to end this presentation, because the Chief Prosecutors agreed, as I understood, to start tomorrow morning the case of the French, and I have just 10 more minutes.

THE PRESIDENT: Yes, very well.

DR. KEMPNER: Thank you, Your Lordship.

I refer to the Hadamar case. I now offer in evidence Document Number 615-PS, Exhibit Number USA-717.

THE TRIBUNAL (Mr. Biddle): What is this last report that you spoke about? Whose is it?

DR. KEMPNER: The Czechoslovak War Crimes Commission report. After I have shown the general scheme, of which Frick was a co-author, I would like to show that Frick's ministry was acquainted with the things that were going on under his organizational authorship; and therefore I am quoting now a letter to the fact that he was acquainted with these killings and that these killings had even become public knowledge. For this reason I offer in evidence Document 615-PS, Exhibit Number USA-717. This document is a letter from the Bishop of Limburg of 13 August 1941 to the Reich Minister of Justice. Copies were sent to the Reich Minister of the Interior—this means Frick—and to the Reich Minister for Church Affairs. I quote:

"About 8 kilometers from Limburg, in the little town of Hadamar, on a hill overlooking the town, there is an institution which had formerly served various purposes and of late had been used as a nursing home; this institution was renovated and furnished as a place in which, by consensus of opinion, the above-mentioned euthanasia has been systematically practiced for months, approximately since February 1941. The fact has

become known beyond the administrative district of Wiesbaden, because death certificates from a Registry Hadamar-Moenchberg are sent to the home communities. . . ."

And I quote further:

"Several times a week buses arrive in Hadamar with a considerable number of such victims. School children of the vicinity know this vehicle and say, 'There comes the murder-box again.' After the arrival of the vehicle, the citizens of Hadamar watch the smoke rise out of the chimney and are tortured with the ever-present thought of the miserable victims, especially when repulsive odors annoy them, depending on the direction of the wind.

"The effect of the principles at work here are: Children call each other names and say, 'You're crazy; you'll be sent to the baking oven in Hadamar.' Those who do not want to marry or find no opportunity say, 'Marry, never! Bring children into the world so they can be put into the bottling machine!' You hear old folks say, 'Don't send me to a state hospital! After the feeble-minded have been finished off, the next useless eaters whose turn will come are the old people.'

". . . The population cannot grasp that systematic actions are carried out which, in accordance with Paragraph 211 of the German criminal code, are punishable with death! . . .

"Officials of the Secret State Police, it is said, are trying to suppress discussion of the Hadamar occurrences by means of severe threats. In the interest of public peace this may be well intended. But the knowledge and the conviction and the indignation of the population cannot be changed by it; the conviction will be increased with the bitter realization that discussion is prohibited with threats but that the actions themselves are not prosecuted under penal law."

I quote the last paragraph of the letter, the postscript:

"I am submitting copies of this letter to the Reich Minister for Church Affairs." Initialed by above.

Nevertheless, the killings carried out in these institutions under the secret law created by Defendants Frick, Himmler, and others continued year after year.

THE PRESIDENT: Was any answer made to that letter?

DR. KEMPNER: No answer has been found. I have other letters which I am not able to quote here today which have the remark, "Please don't answer."

THE PRESIDENT: "Please don't answer"?

DR. KEMPNER: That it should be unanswered.

Nevertheless, the killings carried out in these institutions under the secret law created by Defendants Frick, Himmler, and others continued year after year. I offer in evidence Document 3592-PS, Exhibit Number USA-718, which is a certified copy of the charge, specifications, findings, and sentence of the U.S. Military Commission at Wiesbaden, against the individuals who operated the Hadamar Sanatorium, where many Russians and Poles were murdered. In this particular proceeding seven defendants were charged with the murder in 1944 of 400 persons of Polish and Russian nationality, and three of the defendants were sentenced to be hanged; the other four were sentenced to confinement at hard labor.

Now I come to the last page of my presentation, the final case of Frick's responsibility, which arises under his position as Reich Protector of Bohemia and Moravia for the period from August 20, 1943, until the end of the war. I think it is not necessary to say anything about the functions of the Protector of Bohemia and Moravia; these broad powers are known to the Court.

THE PRESIDENT: Before you pass from 3592-PS, is it clear that that trial relates to the killing of Polish and Russian nationals in nursing homes or institutions of that sort?

DR. KEMPNER: It is absolutely clear in this document, the sentence of the Military Commission of Hadamar for Wiesbaden.

THE PRESIDENT: Will you show me where that is?

DR. KEMPNER: Document Number 3592-PS. I quote:

"Specification: In that Alfons Klein, Adolf Wahlmann, Heinrich Ruoff, Karl Willig, Adolf Merkle, Irmgard Huber, and Philipp Blum, acting jointly and in pursuance of a common intent and acting for and on behalf of the then German Reich, did, from or about July 1, 1944, until about April 1, 1945, at Hadamar, Germany, wilfully, deliberately, and wrongfully aid, abet, and participate in the killing of human beings of Polish and Russian nationality; their exact names and number being unknown, but aggregating in excess of 400, and who were then and there confined by the German Reich as an exercise of belligerent control."

THE PRESIDENT: It doesn't show that it came within the jurisdiction of the Ministry of the Interior.

DR. KEMPNER: Some time ago I referred to the manual of the German administrative officials. This manual points out very clearly that nursing homes, sanitaria, and similar establishments are under the supervision of the Ministry of the Interior.

THE PRESIDENT: I follow that, but this document does not refer to nursing homes. That is what I was asking you.

DR. KEMPNER: Yes, it says only Hadamar. It is, in fact, the Hadamar Nursing Home. This portion wasn't given by the Judge Advocate General, but I am willing to give later a more extended document that Hadamar is a common name for the so-called Hadamar killing mill, which is a nursing home.

Now I come to the last paragraph of my presentation.

THE PRESIDENT: Wait a moment, Dr. Kempner. Counsel for the Defense wishes to speak. There is a gentleman standing by your side.

DR. PANNENBECKER: From Document 3592-PS, which was just read, I cannot find that the Defendant Frick is connected with the document in any way.

THE PRESIDENT: Surely it is not necessary for you to get up and repeat what I have just said.

DR. PANNENBECKER: I would like to add something else.

THE PRESIDENT: I beg your pardon.

DR. PANNENBECKER: I would like to add that the Defendant Frick since August 1943 was not Minister of the Interior, and for that reason this document cannot be used against him.

THE PRESIDENT: And it does not give the date of the death of these people. At any rate, until Dr. Kempner produces something to show that this was a nursing home and in a time during which the Defendant Frick was Minister of the Interior, the Tribunal will not treat it as being evidence which implicates Frick.

DR. KEMPNER: I quoted this killing in Hadamar for two reasons: First, because the Ministry of the Interior has become acquainted, as I said before, with the letter of the Bishop of Limburg, in 1941, when Frick was Minister of the Interior and knew about these facts; and I quoted the military decision for this reason, that these killings were still going on in 1944 and 1945 under a law of which the Defendant Frick was the co-author.

The final phase of Frick's responsibility arises under his position as Reich Protector of Bohemia and Moravia for the period from 20 August 1943 until the end of the war. I have not to prove his function but I shall mention one example, and I offer in evidence Document Number 3589-PS, Exhibit Number USA-720, which is a supplement to an official Czechoslovak report on German crimes against Czechoslovakia. I would like to quote only the following brief passage from this report:

> "During the tenure of office of Defendant Wilhelm Frick as Reich Protector of Bohemia and Moravia from August 1943 until the liberation of Czechoslovakia in 1945 many thousands

of Czechoslovak Jews were transported from the Terezin ghetto in Czechoslovakia to the concentration camp at Oswieczim (Auschwitz) in Poland and were there killed in the gas chambers."

Brought from the territory over which Frick was Protector to the gas chamber.

Thus, we submit, it has been shown that the Defendant Frick was a key conspirator from 1923 until the Allied armies crushed the resistance of the Nazi Armed Forces. Frick's guilt rests on his own record and on the record of his co-defendants, for whom he is co-responsible under our Charter.

I would like to express my appreciation for the assistance rendered in connection with the preparation of this case by my colleagues Mr. Karl Lachmann, Lieutenant Frederick Felton, and Captain Seymour Krieger.

[The Tribunal adjourned until 17 January 1946 at 1000 hours.]

THIRTY-SIXTH DAY

Thursday, 17 January 1946

Morning Session

THE PRESIDENT: I call upon the Counsel for France.

M. FRANCOIS DE MENTHON (Chief Prosecutor for the French Republic): The conscience of the peoples, who only yesterday were enslaved and tortured both in soul and body, calls upon you to judge and to condemn the most monstrous attempt at domination and barbarism of all times, both in the persons of some of those who bear the chief responsibility and in the collective groups and organizations which were the essential instruments of their crimes.

France, invaded twice in 30 years in the course of wars, both of which were launched by German imperialism, bore almost alone in May and June 1940 the weight of armaments accumulated by Nazi Germany over a period of years in a spirit of aggression. Although temporarily crushed by superiority in numbers, material, and preparation, my country never gave up the battle for freedom and was at no time absent from the field. The engagements undertaken and the will for national independence would have sufficed to keep France behind General De Gaulle in the camp of the democratic nations. If, however, our fight for freedom slowly took the shape of a popular uprising, at the call of the men of the Resistance, belonging to all social classes, to all creeds and to all political parties, it was because, while our soil and our souls were crushed by the Nazi invader, our people refused not only to submit to wretchedness and slavery, but even more they refused to accept the Hitlerian dogmas which were in absolute contradiction to their traditions, their aspirations, and their human calling.

France, which was systematically plundered and ruined; France, so many of whose sons were tortured and murdered in the jails of the Gestapo or in concentration camps; France, which was subjected to the still more horrible grip of demoralization and return to barbarism diabolically imposed by Nazi Germany, asks you, above all in the name of the heroic martyrs of the Resistance, who are among the greatest heroes of our national legend, that justice be done.

France, so often in history the spokesman and the champion of human liberty, of human values, of human progress, through my voice today also becomes the interpreter of the martyred peoples

of western Europe, Norway, Denmark, the Netherlands, Belgium, Luxembourg, peoples more than all others devoted to peace, peoples who are among the noblest of humanity by their aspirations and their worship of the values of civilization, peoples who have shared our sufferings and have refused, like us, to give up liberty and to sacrifice their souls before the assault of Nazi barbarism. France here becomes their interpreter to demand that real justice be done.

The craving for justice of the tortured peoples is the basic foundation of France's appearance before Your High Tribunal. It is not the only one, nor perhaps the most important one. More than toward the past, our eyes are turned toward the future.

We believe that there can be no lasting peace and no certain progress for humanity, which still today is torn asunder, suffering, and anguished, except through the co-operation of all peoples and through the progressive establishment of a real international society.

Technical procedures and diplomatic arrangements will not suffice. There can be no well balanced and enduring nation without a common consent in the essential rules of social living, without a general standard of behavior before the claims of conscience, without the adherence of all citizens to identical concepts of good and of evil. There is no domestic law which, in defining and punishing criminal violations, is not founded on criteria of a moral order which is accepted by all—in a word, without a common morality. There can be no society of nations tomorrow without an international morality, without a certain community of spiritual civilization, without an identical hierarchy of values; international law will be called upon to recognize and guarantee the punishment of the gravest violations of the universally accepted moral laws. This morality and this international criminal law, indispensable for the final establishment of peaceful co-operation and of progress on lasting foundations, are inconceivable to us today after the experience of past centuries and more especially of these last years, after the incredible and awesome sacrifices and the sufferings of men of all races and of all nationalities, except as built on the respect of the human person, of every human person whosoever he may be, as well as on the limitation of the sovereignty of states.

But in order that we may have the hope of founding progressively an international society, through the free co-operation of all peoples, founded on this morality and on this international law, it is necessary that, after having premeditated, prepared, and launched a war of aggression which has caused the death of millions of men and the ruin of a great number of nations, after having thereupon piled up the most odious crimes in the course of the war years, Nazi Germany shall be declared guilty and her rulers and those chiefly responsible punished as such. Without this sentence and

without this punishment the people would no longer have any faith in justice. When you have declared that crime is always a crime, whether committed by one national entity against another or by one individual against another, you will thereby have affirmed that there is only one standard of morality, which applies to international relations as well as to individual relations, and that on this morality are built prescriptions of law recognized by the international community; you will then have truly begun to establish an international justice.

This work of justice is equally indispensable for the future of the German people. These people have been for many years intoxicated by Nazism; certain of their eternal and deep seated aspirations, under this regime, have found a monstrous expression; their entire responsibility is involved, not only by their general acceptance but by the effective participation of a great number of them in the crimes committed. Their re-education is indispensable. This represents a difficult enterprise and one of long duration. The efforts which the free peoples will have to make in order to reintegrate Germany into an international community cannot succeed in the end if this re-education is not carried out effectively. The initial condemnation of Nazi Germany by your High Tribunal will be a first lesson for these people and will constitute the best starting point for the work of the revision of values and of re-education which must be its great concern during the coming years.

This is why France sees fit to ask the Tribunal to qualify juridically as crimes, both the war of aggression itself and those acts in violation of the morality and of the laws of all civilized countries which have been committed by Germany in the conduct of the war, to condemn those who are chiefly responsible, and to declare criminal the members of the various groups and organizations which were the principal perpetrators of the crimes of Nazi Germany.

Your High Tribunal, established by the four nations signatory to the agreement of 8 August 1945, acting in the interests of all the United Nations, is qualified to mete out to Nazi Germany the justice of the free peoples, the justice of liberated humanity.

The establishment by our four governments of a Tribunal competent to judge the crimes committed by those principally responsible in Nazi Germany is based solidly on the principles and usage of international law. As an eminent British jurist has recently reminded us: The practice and the doctrine of international law have always given to belligerent states the right to punish enemy war criminals who fall into their power. It is an immutable rule of international law which no author has ever contested. It is not a new doctrine. It was born with the birth of international law. Francisco de

Vittoria and Grotius laid its foundations. The German authors of the 17th and 18th century developed the doctrine.

Thus Johann Jacob Moser, a positivist writer of the 18th century said:

> "Enemy soldiers who act in violation of international law, should they fall into the hands of their adversaries, are not to be treated as prisoners of war. They can suffer the same fate as thieves or murderers."

The prosecutions which the United States, Great Britain, the Union of Soviet Socialist Republics, and France are today carrying out against the men and the organizations appearing before Your High Tribunal under the Indictment read in Berlin on 18 October 1945, therefore have an unimpeachable juridical foundation: The right, universally recognized by international doctrine, of bringing war criminals before a punitive jurisdiction.

This right is strengthened by legal considerations that are perhaps even more irrefutable.

The principle of the territorial application of penal laws gives to every state the right to punish crimes committed on its territory. The application of the territorial principle covers the violations of international law in territory subject to military occupation; these violations are the chief source of war crimes. But the crimes committed by the defendants were not directed against any given state, in any given occupied territory. The National Socialist conspirators, against whom we ask that justice be done, directed the policy of the Third Reich. All the states which were occupied and temporarily enslaved by their armed forces have been equally victims both of the illicit war which they launched and of the methods used by them in the conduct of this war.

There is therefore no single state which could legitimately claim the privilege of trying these criminals. Only an International Tribunal, emanating from the combined United Nations, which were yesterday at war with Germany, can rightly claim this privilege. This is why the declaration on enemy atrocities made at the end of the Moscow Conference in October 1943 had provided that the leaders of Nazi Germany would, after the joint victory of the Allies, be brought before an international jurisdiction. There is, therefore, nothing new from a juridical point of view in the principle of justice which you are called upon to render. Far from being merely an affirmation of power on the part of the victors, your competence is founded on the recognition by international law of the territorial jurisdiction of sovereign states.

The transfer by these states of their juridical power to an international court constitutes a notable progress in the setting up

of an inter-state punitive procedure. It does not constitute any innovation in the legal foundation of the justice which you are called upon to render.

The penal qualification of the facts may seem more open to juridical objections. This horrible accumulation and maze of Crimes against Humanity both include and go beyond the two more precise juridical notions of Crimes against Peace and War Crimes. But I think—and I will revert later separately to Crimes against Peace and War Crimes—that this body of Crimes against Humanity constitutes, in the last analysis, nothing less than the perpetration for political ends and in a systematic manner, of common law crimes such as theft, looting, ill treatment, enslavement, murders, and assassinations, crimes that are provided for and punishable under the penal laws of all civilized states.

No general objection of a juridical nature, therefore, appears to hamper your task of justice.

Moreover, the Nazis accused would have no ground to argue on alleged lack of written texts to justify the penal qualification that you will apply to their crimes.

Has not the juridical doctrine of National Socialism admitted that in domestic criminal law even the judge can and must supplement the law? The written law no longer constituted the Magna Charta of the delinquent. The judge could punish when, in the absence of a provision for punishment, the National Socialist sense of justice was gravely offended.

How could a judge under the Nazi regime supplement the law?

In his search for a semi-legal solution he acted in the manner of a legislator. Proceeding from the firm basis of the National Socialist program, he sought the rule which he would have proclaimed had he been a legislator. The Defendant Frank, in his speech at the Juristentag in 1936, declared:

> "Say to yourself at each decision you have to make: How would the Führer decide in my place? For every decision which you have to make, ask yourself: Is this decision in accordance with the National Socialist conscience of the German people? Thus you will have a firm basis of conscience which will also bear for all time, in your own sphere of decisions, the authority of the Third Reich, based on the popular National Socialist unity and on the recognition of the will of the Führer Adolf Hitler."

To those who tomorrow will render justice in the name of human conscience, the Defendant Frank and his accomplices would be ill advised to protest against a lack of written texts with appropriate

sanctions, especially since, in addition to various international conventions, these texts, though they be not codified in an inter-state penal code, exist in the penal code of every civilized country.

Mr. Justice Jackson has given you the details of the various phases and aspects of the National Socialist plot, its planning and its development, from the first days of the conspiracy of Hitler and his companions to rise to power, until the unleashing of innumerable crimes in a Europe almost entirely at their mercy.

Sir Hartley Shawcross then enumerated the various breaches of treaties, of agreements, of promises which were the prelude to the many wars of aggression of which Germany was guilty.

I propose today to prove to you that all this organized and vast criminality springs from what I may be allowed to call a crime against the spirit, I mean a doctrine which, denying all spiritual, rational, or moral values by which the nations have tried, for thousands of years, to improve human conditions, aims to plunge humanity back into barbarism, no longer the natural and spontaneous barbarism of primitive nations, but into a diabolical barbarism, conscious of itself and utilizing for its ends all material means put at the disposal of mankind by contemporary science. This sin against the spirit is the original sin of National Socialism from which all crimes spring.

This monstrous doctrine is that of racialism: The German race, composed in theory of Aryans, would be a fundamental and natural concept. Germans as individuals do not exist and cannot justify their existence, except insofar as they belong to the race or Volkstum, to the popular mass which represents and amalgamates all Germans. Race is the matrix of the German people; proceeding therefrom this people lives and develops as an organism. The German may consider himself only as a healthy and vigorous member of this body, fulfilling within the collectivity a definite technical function; his activity and his usefulness are the exact gauge and justification of his liberty. This national body must be "moulded" to prepare it for a permanent struggle.

The ideas and the bodily symbols of racialism form an integral part of its political system. This is what is called authoritative or dictatorial biology.

The expression "blood" which appears so often in the writings of the Nazi theorists denotes this stream of real life, of red sap which flows through the circulatory system of every race and of all genuine culture as it flows through the human body. To be Aryan is to feel this current passing through oneself, this current which galvanizes and vivifies the whole nation. Blood is this region of spontaneous and unconscious life which reveals to each individual the tendencies of the race. The intellectual life must never, in extolling itself,

separate us from this elemental basis of the sacred community. Let the individual go into himself and he will receive by direct revelation "the commandments of the blood." Dreams, rites, and myths can lead to this revelation. In other words the modern German can and must bear in himself the call of the old Germany and find again its purity and its youthful primitiveness.

The body and soul unity (Leib Seele Einheit) of the individual must not be disputed. One reads in the *Nationalsozialistische Monatshefte* of September 1938 that the body belongs to the State and the soul to the Church and to God. It is no longer so. The whole of the individual, body and soul, belongs to the Germanic nation and to the Germanic State. National Socialism affirms, indeed, that the moral conscience is the result of ortho-genetic evolution, the consequence of the most simple physiological functions which characterize the individuality of the body. Therefore, the moral conscience is also subject to heredity and consequently subject to the postulate and to the demands of the race.

True, this pseudo-religion does not repudiate the means of reason and of technical activity, but subordinates them rigorously, brings them infallibly to the racial myth.

The individual has no value in himself and is important only as an element of the race. This affirmation is logical if one admits that not only physical and psychological characteristics, but also opinions and tendencies are bound, not to the individual but to the nation. Anyone whose opinions differ from the official doctrine is asocial or unhealthy. He is unhealthy because in the Nazi doctrine the nation is equivalent to the race. Now, the characteristics of the race are fixed. An exception in the formation from the spiritual or moral point of view constitutes a malformation in the same way as does a clubfoot or a harelip.

That is the totalitarian doctrine which reduces the individual to nonexistence save by the race and for the race, without freedom of action or any definite aim; totalitarian doctrine which excludes every other concept, every other aspiration or requirement save those connected with the race, totalitarian doctrine which eliminates from the individual every other thought save that of the interest of the race.

National Socialism ends in the absorption of the personality of the citizen into that of the state and in the denial of any intrinsic value of the human person.

We are brought back, as can be seen, to the most primitive ideas of the savage tribe. All the values of civilization accumulated in the course of centuries are rejected, all traditional ideas of morality, justice, and law give way to the primacy of race, its instincts, its

needs and interests. The individual, his liberty, his rights and aspirations, no longer have any real existence of their own.

In this conception of race it is easy to realize the gulf that separates members of the German community from other men. The diversity of the races becomes irreducible, and irreducible, too, the hierarchy which sets apart the superior and the inferior races. The Hitler regime has created a veritable chasm between the German nation, the sole keeper of the racial treasure, and other nations.

Between the Germanic community and the degenerate population of an inferior variety of men there is no longer any common measure. Human brotherhood is rejected, even more than all the other traditional moral values.

How can one explain how Germany, fertilized through the centuries by classic antiquity and Christianity, by the ideals of liberty, equality, and social justice, by the common heritage of western humanism to which she had brought such noble and precious contributions, could have come to this astonishing return to primitive barbarism?

In order to understand it and to try to eradicate forever from the Germany of tomorrow the evil by which our entire civilization came so near to perishing, it must be recalled that National Socialism has deep and remote origins.

The mysticism of racial community was born of the spiritual and moral crises which Germany underwent in the 19th century and which abruptly broke out again in its economic and social structure through a particularly rapid industrialization. National Socialism is in reality one of the peaks of the moral and spiritual crisis of modern humanity, convulsed by industrialization and technical progress. Germany experienced this metamorphosis of economic and social life not only with an extraordinary brutality but at a time when she did not yet possess the political equilibrium and the cultural unity which the other countries of western Europe had achieved.

While the inner and spiritual life was weakening, a cruel uncertainty dominated human minds, an uncertainty admirably defined by the term "Ratlosigkeit," which cannot be translated into French but which corresponds to our popular expression, "One no longer knows in what saint to believe." This is the spiritual cruelty of the 19th century which so many Germans have described with a tragic evocative power. A gaping void opens before the human soul, disoriented by the search for new values.

The natural sciences and the sciences of the mind give birth to absolute relativism; to a deep scepticism regarding the lasting quality of values on which Western humanism has been nurtured for centuries. A vulgar Darwinism prevails, bewilders, and befuddles

the brain. The Germans cease to see in human groups and races anything but isolated nuclei in perpetual struggle with one another.

It is in the name of decadence that the German spirit condemns humanism. It sees in the value of humanism and in the elements that derive from it only "maladies," which it attributes to an excess of intellectualism and abstraction of everything that restrains men's passions by subjecting them to common norms. From this point on, classic antiquity is no longer considered in its aspects of ordered reason or of radiant beauty. In it one sees only civilizations violently enamored of struggles and rivalries, linked especially to Germany through their so-called Germanic origin.

Sacerdotal Judaism and Christianity in all its forms are condemned as religions of honor and brotherhood, calculated to kill the virtues of brutal force in man.

A cry is raised against the democratic idealism of the modern era, and then against all the internationals.

Over a people in this state of spiritual crisis and of negations of traditional values the culminating philosophy of Nietzsche was to exercise a dominant influence. In taking the will to power as a point of departure, Nietzsche preached, certainly not inhumanity but superhumanity. If there is no final cause in the universe, man, whose body is matter which is at once feeling and thinking, may mould the world to his desire, choosing as his guide a militant biology. If the supreme end of humanity is a feeling of victorious fullness which is both material and spiritual, all that remains is to insure the selection of physical specimens, who become the new aristocracy of masters.

For Nietzsche the industrial evolution necessarily entails the rule of the masses, the automatism and the shaping of the working multitudes. The state endures only by virtue of an elite of vigorous personalities who, by the methods so admirably defined by Machiavelli, which alone are in accord with the laws of life, will lead men by force and by ruse simultaneously, for men are and remain wicked and perverse.

We see the modern barbarian arise. Superior by his intelligence and his wilful energy, freed of all conventional ethics, he can enforce upon the masses obedience and loyalty by making them believe in the dignity and beauty of labor and by providing them with that mediocre well-being with which they are so easily content. An identical force will, therefore, be manifest in the leaders, by the harmony between their elementary passions and the lucidity of their organizing reason, and in the masses, whose dark or violent instincts will be balanced by a reasoned activity imposed with implacable discipline.

Without doubt, the late philosophy of Nietzsche cannot be identified with the brutal simplicity of National Socialism. Nevertheless, National Socialism was wont to glorify Nietzsche as one of its ancestors. And justly so, for he was the first to formulate in a coherent manner criticism of the traditional values of humanism; and also, because his conception of the government of the masses by masters knowing no restraint is a preview of the Nazi regime. Besides, Nietzsche believed in the sovereign race and attributed primacy to Germany, whom he considered endowed with a youthful soul and unquenchable resources.

The myth of racial community which had arisen from the depths of the German soul, unbalanced by the moral and spiritual crises endured by modern humanity, allied itself with the traditional theses of Pan-Germanism.

Already Fichte's speeches to the German nation exalting Germanism clearly reveal one of the main ideas of Pan-Germanism, namely, that Germany visualizes and organizes the world as it should be visualized and organized.

The apology for war is equally ancient. It dates back to Fichte and Hegel, who had affirmed that war, through its classifying of peoples, alone establishes justice among nations. For Hegel, in *Grundlinien der Philosophie des Rechtes,* Page 433, states: "The moral health of nations is maintained thanks to war, just as the passing breeze saves the sea from stagnation."

The living-space theory appears right at the beginning of the 19th century. It is a well-known geographical and historical demonstration which such people as Ratzel, Arthur Dix, and Lamprecht will take up later on, comparing conflicts between peoples to a savage fight between conceptions and realizations of space and declaring that all history is moving towards German hegemony.

State totalitarianism also has ancient roots in Germany. The absorption of individuals by the State was hoped for by Hegel, who wrote:

> "Individuals disappear in the presence of the universal substance"—that is the people or state idea—"and this substance itself shapes the individuals in accordance with its own ends."

Therefore, National Socialism appears in present-day Germany neither as a spontaneous formation which might be due to the consequence of the defeat in 1918, nor as a mere invention of a group of men determined upon seizing power. National Socialism is the ultimate result of a long evolution of doctrines; the exploitation by a group of men of one of the most profound and most tragic aspects of the German soul. But the crime committed

by Hitler and his companions will be precisely that of unleashing and exploiting to its extreme limit the latent force of barbarity, which existed before him in the German people.

The dictatorial regime instituted by Hitler and his companions carries with it for all Germans the "soldier-life," that is to say, a kind and a system of life entirely different from that of the bourgeois West and the proletarian East. It amounted to a permanent and complete mobilization of individual and collective energies. This integral militarization presupposed complete uniformity of thoughts and actions. It is a militarization which conforms to the Prussian tradition of discipline.

Propaganda instils into the masses faith, drive, and a thirst for the greatness of the community. Those consenting masses find an artificial derivative for their moral anguish and their material cares in theories of race and in a mystical exaltation held in common. Souls which yesterday were wounded and rent asunder once more find themselves united in a common mould.

The Nazi educational system moulds new generations which show no trace of traditional moral teachings, those being replaced by the cult of race and of strength.

The race myth tends to become a real national religion. Many writers dream of substituting for the duality of religious confessions a world-wide dogma of German conception, which would amount to being the religion of the German race as a race.

In the middle of the 20th century Germany goes back, of her own free will, beyond Christianity and civilization to the primitive barbarity of ancient Germany. She makes a deliberate break with all universal conceptions of modern nations. The National Socialist doctrine, which raised inhumanity to the level of a principle, constitutes, in fact, a doctrine of disintegration of modern society.

This doctrine necessarily brought Germany to a war of aggression and to the systematic use of criminality in the waging of war.

The absolute primacy of the German race, the negation of any international law whatsoever, the cult of strength, the exacerbation of community mysticism made Germany consider recourse to war, in the interests of the German race, logical and justified.

This race would have the incontestable right to grow at the expense of nations considered decadent. Germany is about to resume even in the middle of the 20th century the great invasions of the barbarians. Moreover, most naturally and logically, she will wage her war in barbarous fashion, not only because National Socialist ethics are indifferent to the choice of means, but also because war must be total in its means and in its ends.

Whether we consider a Crime against Peace or War Crimes, we are therefore not faced by an accidental or an occasional criminality

which events could explain without justifying it. We are, in fact, faced by systematic criminality, which derives directly and of necessity from a monstrous doctrine put into practice with deliberate intent by the masters of Nazi Germany.

From the National Socialist doctrine there arises directly the immediately pursued perpetration of Crimes against Peace. As early as February 1920, in the first program of the National Socialist Party, Adolf Hitler had already outlined the future basis of German foreign policy. But it was in 1924 in his Landsberg prison, while writing *Mein Kampf,* that he gave a fuller development to his views.

According to *Mein Kampf* the foreign policy of the Reich must have as its first objective to give back to Germany her "independence and her effective sovereignty" which is clearly an allusion to the articles of the Treaty of Versailles, referring to disarmament and the demilitarization of the Rhineland. It would then endeavor to reconquer the territories lost in 1919, and 15 years before the outbreak of the second World War the question of Alsace and Lorraine is clearly raised. It would also have to seek to extend German territories in Europe, the frontiers of 1914 being "insufficient" and it would be indispensable to extend them by including "all Germans" in the Reich, beginning with the Germans of Austria.

After having reconstituted Greater Germany, National Socialism will do everything necessary to "insure the means of existence" on this planet to the race forming the state, by means of establishing a "healthy relation" between the size of the population and the extent of the territory. By "healthy relation" is meant a situation such that the subsistence of the people will be assured by the resources of its own territory. "A sufficient living space on this earth will alone insure to a people its liberty of existence."

But so far that is but a stage.

> "When a people sees its subsistence guaranteed by the extent of its territory, it is nevertheless necessary to think of insuring the security of that territory"—because the power of a state "arises directly out of the military value of its geographical situation."

Those ends, Hitler adds, cannot be reached without war. It will be impossible to obtain the re-establishment of the frontiers of 1914 "without bloodshed." How much more impossible it would be to acquire living space if one did not prepare for a "clash of arms."

> "It is in Eastern Europe, at the expense of Russia and the neighboring countries that Germany must seek new territories. We are stopping the eternal march of the Germans

towards the South and the West of Europe and are casting our eyes towards the East."

But before anything, declares Hitler, it is necessary to crush France's tendency towards hegemony and to have a "final settlement" with this "mortal enemy." "The annihilation of France will enable Germany to acquire afterwards territories in the East." The "settlement of accounts" in the West is but a prelude. "It can be explained only as the securing of our rear defenses in order to extend our living-space in Europe."

Henceforth, also, Germany will have to prevent the existence near her territory of a "military power" which might become her rival and to oppose "by all means" the formation of a state which possibly might acquire sufficient strength to do so; and if that state exists already, to "destroy" it is, for Germans, not only a right but a duty. "Never permit"—recommends Hitler to his compatriots, in a passage which he calls his political testament—"the formation in Europe of two continental powers. In every attempt to set up a second military power on Germany's borders, even if it were in the shape of a state which might possibly acquire that power, you must see an attack on Germany."

War to reconquer the territories lost in 1919, war to annihilate the power of France, war to acquire living-space in eastern Europe, war, finally, against any state which would be or which might become a counter-weight to the hegemony of the Reich, that is the plan of *Mein Kampf*.

In this way, from the inception of National Socialism, he does not recoil from any of the certainties of war entailed by the application of his doctrines.

In fact, from the moment of his accession to power, Hitler and his companions devoted themselves to the military and diplomatic preparation of the wars of aggression which they had resolved to wage.

It is true that, even before the accession to power of the National Socialists, Germany had shown her determination to reconstruct her armed forces, notably in 1932 when, on the occasion of the Disarmament Conference, she demanded "equality of rights" as regards armament; and Germany had already secretly violated the articles of the Treaty of Versailles regarding disarmament. But after the arrival of Hitler to power, German rearmament was to be carried out at a vastly different rate.

On 14 October 1933 the Reich left the Disarmament Conference and made known 5 days later its decision to withdraw from the League of Nations under the pretext that it was not granted equality of rights in the matter of armament. France had, however, expressed her readiness to accept equality of rights if Germany

would first consent to an international control which would enable the actual level of existing armaments to be determined. Germany very obviously did not wish to agree to this condition, for an international control would have revealed the extent of the rearmament already carried out in secret by the Reich in violation of the treaties. As a matter of fact, at a cabinet meeting which took place on 13 October 1933, the minutes of which have been found, Hitler had declared that he wished to "torpedo" the Disarmament Conference. Under these conditions it is not surprising that the attempts made to resume negotiations with Germany after her withdrawal ended in failure.

When 18 months later Hitler's government decided to reestablish conscription and to create immediately an army which would, on a peace establishment, comprise 36 divisions, as well as to create a military air force, it was breaking the engagements which Germany had undertaken by the Treaty of Versailles. However, on 3 February 1935, France and Great Britain had suggested to the Reich that it resume its place in the League of Nations and prepare a general disarmament convention which would have been substituted for the military Articles of the Treaty. At the moment when Hitler was on the point of obtaining, by means of free negotiation, the abolition of the "unilateral burden" which, as he said, the Treaty of Versailles laid on Germany, he preferred to escape any voluntary limitation and any control of armaments by a deliberate violation of a treaty.

When it decided on 7 March 1936 to denounce the Treaty of Locarno and to reoccupy at once the demilitarized Rhineland area, thereby violating Articles 42 and 43 of the Treaty of Versailles, the German government alleged that in so doing it was replying to the pact concluded and signed on 2 May 1935, between France and the U.S.S.R., and ratified on 27 February 1936 by the French Chamber of Deputies. It alleged that this pact was contrary to the Treaty of Locarno. This was a mere pretext which was taken seriously by nobody. The Nazi leaders wanted to start building the Siegfried Line as soon as possible in the demilitarized Rhineland area, in order to thwart a military intervention which France might attempt in order to assist her Eastern allies. The decision of 7 March 1936 was the prelude to the aggressions directed against Austria, Czechoslovakia, and Poland.

Internally, rearmament was achieved thanks to a plan of economic and financial measures which affected every aspect of national life. The entire economic system was directed towards the preparation of war. The members of the government proclaimed priority of armaments manufacture over all other branches of production. Policy took precedence over economics. The Führer declared:

"The people must be resigned for some time to having its butter, fats, and meat rationed in order that rearmament may proceed at the desired rate."

The German people did not protest against this order. The state intervened to increase the production of substitute goods which would help to relieve the insufficiency of raw materials and would enable the Reich, in the event of war, to maintain the level of production necessary for the Army and Air Force, even if imports were to become difficult or impossible. The Defendant Göring, in September 1936, inspired the drawing up and directed the application of the Four Year Plan which put Germany's economic system on a war footing. The expenses entailed by this rearmament were assured thanks to the new system of work treaties. The Defendant Schacht during the 3½ years he was at the head of the Reich Ministry of Economics brought into being this financial machinery and thereby played an outstanding role in military preparations as he himself recalled, after he left the Ministry, in a speech that he made in November 1938 at the Economic Council of the German Academy.

Germany thus succeeded in 3 years' time in recreating a great army and in creating on the technical plane an organization entirely devoted to future war. On 5 November 1937, when expounding his plan for home policy to his collaborators, Hitler stated that rearmament was practically completed.

THE PRESIDENT: Would that be a convenient time to break off? We will adjourn, then, for 10 minutes.

[A recess was taken.]

M. DE MENTHON: While Hitler's government was giving to the Reich the economic and financial means for a war of aggression he was carrying on simultaneously the diplomatic preparation of that war by endeavoring to reassure the threatened nations during the period which was indispensable to him for rearmament and by endeavoring also to keep apart his eventual adversaries one from the other.

In a speech on 17 May 1933, Hitler, while asking for a revision of the Treaty of Versailles, declared that he had no intention of obtaining it by force. He stated that he admitted "the legitimate exigencies of all peoples" and asserted that he did not want to "germanize those who are not Germans." He wished to "respect the rights of other nationalities."

The German-Polish Non-Aggression Pact, concluded on 26 January 1934, which was to reassure for a time the Warsaw government and to lull it into a state of false security, was principally intended

to bar French policy from any action. In a work published in 1939 entitled *Deutschlands Aussenpolitik 1933-39,* an official writer, Professor Von Freytagh-Loringhoven, wrote that the essential purpose of this pact was to paralyze the action of the Franco-Polish alliance and to "overthrow the entire French system."

On 26 May 1935, 10 days after denouncing the military clauses of the Treaty of Versailles, Germany started negotiations with Great Britain which were to result in the Naval Agreement of 18 June 1935, negotiations which were intended to reassure British public opinion by showing it that, while the Reich was desirous of becoming once more a great military power, it was not thinking of reconstituting a powerful fleet.

Immediately following the plebiscite of 13 January 1935 which decided the return of the Saar territory to the Reich, Hitler formally declared "that he would make no further territorial demands whatsoever on France."

He was to use the same tactics towards France until the end of 1938. On 6 December 1938 Ribbentrop came to Paris to sign the Franco-German Declaration which recognized "the frontiers as definite" between the two countries, and which stated that the two governments were resolved:

> "... under reservation of their particular relations with third powers, to engage in mutual consultation in the event of questions of common interests which might show a risk of leading to international difficulties...."

He was then still hoping, to quote the French Ambassador in Berlin, to "stabilize peace in the West in order to have a free hand in the East."

Did not Hitler make the same promises to Austria and Czechoslovakia? He signed, on 11 July 1936, an agreement with the Viennese government recognizing the independence of Austria, an independence which he was to destroy 20 months later. By means of the Munich Agreement on 29 September 1938, he promised subsequently to guarantee the integrity of the Czech territory which he invaded less than 6 months later.

Nevertheless, as early as 5 November 1937, in a secret conference held at the Reich Chancellery, Hitler had made known to his collaborators that the hour had come to resolve by force the problem of the living-space required by Germany. The diplomatic situation was favorable to Germany. She had acquired superiority of armaments which ran the risk of being only temporary. Action should be taken without further delay.

Thereupon started the series of aggressions which have already been detailed before this Court. It has also been shown to you

that these various aggressions have been made in violation of international treaties and of the principles of international law. As a matter of fact, German propaganda did not challenge this at the time. It merely stated that those treaties and those principles "had lost any reality whatever with the passage of time." In other words, it simply denied the value of the word once pledged and asserted that the principles which formed the basis of international law had become obsolete. This is a reasoning which is in line with the National Socialist doctrines which, as we have seen, do not recognize any international law and state that any means is justifiable if it is of a nature to serve the interests of the German race.

However, it is worth while examining the various arguments which German propaganda made use of to justify the long-planned aggression.

Germany set forth, first of all, her vital interests. Can she not be excused for neglecting the rules of international law when she was engaged in a struggle for the existence of her people? She needed economic expansion. She had the right and the duty to protect the German minorities abroad. She was obliged to ward off the encirclement which the Western powers were directing against the Reich.

Economic expansion was one of the reasons which Hitler put forward, even to his direct associates, in the secret conferences he held in 1937 and 1939 in the Reich Chancellery. "Economic needs," he said "are the basis of the policy of expansion of Italy and of Japan. They also guide Germany."

But would not Hitler's Germany have been able to seek to satisfy these needs by peaceful means? Did she think of obtaining new possibilities for her foreign commerce through commercial negotiations? Hitler did not stop at such solutions. To solve the German economic problems, he saw only one way—the acquisition of agricultural territories—undoubtedly because he was incapable of conceiving of these problems under any other form than that of "war economy." If he affirmed the necessity of obtaining this "agricultural space"—to use his own words—it was because he saw therein the means of obtaining for the German population the food resources which would protect it against the consequences of a blockade.

The duty of protecting "the German minorities abroad" was the favorite theme which Germany's diplomacy made use of from 1937 to 1939. It could obviously not serve as an excuse for the destruction of the Czechoslovakian State or for the establishment of the "German Protectorate of Bohemia-Moravia." The fate of the

"Sudeten Germans," that of the "Danzig Germans" was the Leitmotiv of the German press, of the Führer's speeches, and of the publications of Ribbentrop's propaganda. Thus, is it necessary to recall that in the secret conference of 5 November 1937, in which Hitler draws up for his associates the plan of action to be carried out against the Czechoslovakian State, he does not say one word about the "Sudeten Germans" and to recall that in the conference of 23 May 1939 he declares that Danzig is not the "principal point" of the German-Polish controversy? The "right of nationalities" was, therefore, in his mind only a propaganda method intended to mask the real design, which was the conquest of "living space."

The encirclement directed by the Western Powers against the Reich is the argument which Hitler used when, on 28 April 1939, he denounced the Naval Agreement which he had concluded in 1935 with Great Britain. This thesis of encirclement occupied a great deal of space in the German *White Book of 1939,* relative to the origins of the war; but is it possible to speak of encirclement when Germany had, in May 1939, obtained the alliance with Italy and when, on 23 August 1939, she concluded the German-Russian Pact, and can we forget that the diplomatic efforts of France and of Great Britain in respect to Greece, Romania, Turkey, Poland, are subsequent both to the destruction of the Czechoslovakian State and to the beginning of the German-Polish diplomatic conflict. Had not the British Prime Minister declared on 23 March 1939 before the House of Commons that British policy had only two aims: To prevent Germany from dominating Europe and "to oppose a method which, by the threat of force, obliged the weak states to renounce their independence"? What Hitler Germany called "encirclement" was simply a fence, belatedly built in an attempt to check measureless ambitions.

But German propaganda did not limit itself to this. Did we not see one of its spokesmen point to the contrast between the passivity of France and Great Britain in September 1938 and the resistance which they showed in 1939 to the Hitler policy, wherefrom it was concluded that the peace would have been maintained if the Western Powers had exercised pressure on Poland to bring it to accept the German demands, as they had exercised pressure the previous year on Czechoslovakia? A strange argument, which is equivalent to saying that Germany would have been willing not to make war if all the Powers had yielded to her will! Is it an excuse for the perpetrators of these violations that France and Great Britain had for a long time opposed the violations of international law by Germany merely by platonic protests?

Public opinion in France and Great Britain, deceived by Hitler's declarations, may have believed that the designs of National

Socialism contemplated only settling the fate of German minorities; it may have hoped that there was a limit to German ambitions; and, ignorant as they were of the secret plans of which we have proof today, France and Great Britain allowed Germany to rearm and reoccupy the Rhineland at the very moment when, according to the testimony of Ribbentrop himself, a military reaction on their part would, in March 1936, have placed the Reich in a critical situation. They permitted the aggression of March and September 1938, and it required the destruction of the Czechoslovakian State to make the scope of the German plans clear to the Allies. How can one be astonished that their attitude then changed and they decided to resist the German plans? How could one still claim that the peace could have been "bought" in August 1939 by concessions, since the German secret documents prove that Hitler was determined to attack Poland as early as May 1939, and that he would have been "deeply disappointed" if she had yielded, and that he wished a general war?

In reality, the war was implied by the coming to power of the National Socialists. Their doctrine inevitably led to it.

As Sir Hartley Shawcross forcefully brought out before Your High Tribunal, a war of aggression is self-evidently a violation of international law and, more particularly, a violation of the General Treaty for the Renouncement of War of 27 August 1928, under the name of the Paris Pact, or the Kellogg-Briand Pact, of which Germany is one of the signatories. This pact continues to constitute a part of international law.

May I reread Article I of this Treaty?

> "The High Contracting Parties solemnly declare, in the name of their respective peoples, that they condemn recourse to war for the solution of international controversies and renounce it as an instrument of national policy in their reciprocal relations."

War of aggression thus ceased to be lawful in 1928.

Sir Hartley Shawcross told you, with eloquence, that the Paris Pact, a new law of civilized nations, was the foundation of a better European order. The Paris Pact, which remains the fundamental charter of the law of war, indeed marks an essential step in the evolution of the relations between states. The Hague Conventions had regulated the "law of the conduct of war." They had instituted the obligation of recourse to arbitration as a preliminary to any conflict. They had, essentially, established a distinction between acts of war to which international law and custom allow recourse and those which it prohibits. The Hague Convention did not even touch upon the principle of war which remained outside the legal sphere. This is, in fact, what is brought into being by the Paris

Pact, which regulates "the right of declaration of war." Since 1928 the international law of war has emerged from its framework of regulations. It has gone beyond the empiricism of the Hague Convention to qualify the legal foundation of recourse to force. Every war of aggression is illegal, and the men who bear the responsibility for bringing it about place themselves by their own will beyond the law.

What does this mean, if not that all acts committed as a consequence of this aggression for the carrying on of the struggle thus undertaken will cease to have the juridical character of acts of war?

May I quote this well-known passage from Pascal?

"Why do you kill me? Don't you live on the other side of the water? My friend, if you lived on this side, I would be an assassin, and it would be unjust to kill you as I am doing, but since you live on the other side, I am an honorable man, and this is just."

Acts committed in the execution of a war are assaults on persons and goods which are themselves prohibited but are sanctioned in all legislations. The state of war could make them legitimate only if the war itself was legitimate. Inasmuch as this is no longer the case, since the Kellogg-Briand Pact, these acts become purely and simply common law crimes. As Mr. Justice Jackson has already argued before you with irrefutable logic, any recourse to war is a recourse to means which are in themselves criminal.

This is the whole spirit of the Kellogg-Briand Pact. It was intended to deprive the states which accepted it of the right of having recourse, in their national interests, to a series of acts directed against the physical persons or against the properties of nationals of a foreign power. Given this formal commitment, those who have ignored it have given the order to commit acts prohibited by the common law of civilized states, and there is here involved no special rule of international law like that which existed previously and which left the said acts of war untouched by any criminal qualifications.

A war perpetrated in violation of international law no longer really possesses the juridical character of a war. It is truly an act of gangsterism, a systematically criminal undertaking.

This war, or this would-be-war, is in itself not only a violation of international law, but indeed a crime, since it signifies the launching of this systematically criminal enterprise.

Inasmuch as they could not legally have recourse to force, those who dictated it, and who were the very organs of the state bound by treaties, must be considered as the very source of the numerous assaults upon life and property that are severely punished by all penal law.

One cannot, of course, deduce from the preceding the individual responsibility of all the perpetrators of acts of violence. It is obvious that, in an organized modern state, responsibility is limited to those who act directly for the state, they alone being in a position to estimate the lawfulness of the orders given. They alone can be prosecuted and they must be prosecuted. International law is sufficiently powerful that the prestige of the sovereignty of states cannot reduce it to impotence. It is not possible to maintain that crimes against international law must escape repressive action because, on the one hand, the state is an entity to which one cannot impute criminal intention and upon which one cannot inflict punishment and, on the other, no individual can be held responsible for the acts of the state.

On the other hand, it cannot be objected that, despite the illegality of the principle of recourse to force by Germany, other states have admitted that war existed and speak of the application of international law in time of war. It must, in fact, be noted that, even in the case of civil war, the parties have often invoked these rules which, to a certain extent, canalize the use of force. This in no wise implies acquiescence in the principle of its use. Moreover, when Great Britain and France communicated to the League of Nations the fact that a state of war existed between them and Germany as of 3 September 1939, they also declared that in committing an act of aggression against Poland, Germany had violated its obligations, assumed not only with regard to Poland but also with regard to the other signatories of the Paris Pact. From that moment on, Great Britain and France took cognizance, in some way, of the launching of an illegal war by Germany.

Recourse to war implies preparation and decision; it would be futile to prohibit it, if one intended to inflict no chastisement upon those who knowingly had recourse to it, though they had the power of choosing a different path. They must, indeed, be considered the direct instigators of the acts qualified as crimes.

It seems to us that it is evident from all this that the Charter of 8 August only established a jurisdiction to judge what was already an international crime, not only before the conscience of humanity but also according to international law, even before the Tribunal was established.

If it is not contested that a crime has really been committed, is it possible to contest the competence of the International Tribunal to judge it?

There can, indeed, be no doubt that the states bound by the treaty of 1928 had assumed international responsibilities towards the co-signatories, should they act contrary to the agreements undertaken.

International responsibility normally involves the collective state, as such, without in principle exposing the individuals who have been the perpetrators of an illegal act. It is within the framework of the state, with which an international responsibility rests, that as a general rule the conduct of the men who are responsible for this violation of international law may be appraised. They are subject, as the case may be, to political responsibility or to penal responsibility before the assemblies or the competent jurisdictions.

The reason for this is that normally the framework of the state comprises the nationals: The order of the state assumes the exercise of justice over a given territory and with regard to the individuals whom it includes, and the failure of the state in the exercise of this essential mission is followed by the reaction and the protests of third powers, notably when their own nationals are involved.

But in the present situation there is no German State.

Since the Surrender Declaration of 5 May 1945 and until the day when a government shall have been established by the agreement of the four occupying Powers, there will be no organ representing the German State. Under these conditions, it cannot be considered that a German State juridical order exists, which is capable of bringing the consequences arising from a recognition of the responsibility of the Reich for the violation of the Kellogg-Briand Pact to bear upon those individuals who are, in fact, the perpetrators of this violation in their capacity as organs of the Reich.

Today supreme authority is being exercised over the whole German territory, in regard to the entire German population, by the Four Powers acting jointly. It must, therefore, be allowed that the states which exercise supreme authority over the territory and population of Germany can submit this guilt to a Court's jurisdiction. Otherwise, the proclamation that Germany has violated the solemn covenant which it has undertaken, becomes meaningless.

There is also involved a penal responsibility incurred for a series of acts, qualified as crimes, which were committed against nationals of the United Nations. These acts, which are not juridically acts of war but which have been committed as such upon the instigation of those who bear the responsibility for the launching of the so-called war, who have committed aggression upon the lives and the property of nationals of the United Nations, may, by virtue of the territorial principle as we have shown above, be brought before a jurisdiction constituted for this purpose by the United Nations, even as war crimes, properly speaking, are now being brought before the tribunals of each country whose nationals have been victims hereof.

Crimes committed by the Nazis in the course of the war, like the war of aggression itself, will be, as Mr. Justice Jackson has demonstrated to you, the manifestation of a concerted and methodically executed plan.

These crimes flow directly, like the war itself, from the National Socialist doctrine. This doctrine is indifferent to the moral choice of means to attain a final success, and for this doctrine the aim of war is pillage, destruction, and extermination.

Total war, totalitarian war in its methods and its aims, is dictated by the primacy of the German race and the negation of any other value. The Nazi conception maintains selection as a natural principle. The man who does not belong to the superior race counts for nothing. Human life and even less liberty, personality, the dignity of man, have no importance when an adversary of the German community is involved. It is truly "the return to barbarism" with all its consequences. Logically consistent, National Socialism goes to the length of assuming the right, either to exterminate totally races judged hostile or decadent, or to subjugate or put to use individuals and groups capable of resistance, in the nations. Does not the idea of totalitarian war imply the annihilation of any eventual resistance? All those who, in any way, may be capable of opposing the New Order and the German hegemony will be liquidated. It will thus become possible to assure an absolute domination over a neighboring people that has been reduced to impotence and to utilize, for the benefit of the Reich, the resources and the human material of those people reduced to slavery.

All the moral conceptions which tended to make war more humane are obviously outdated, and the more so, all international conventions which had undertaken to bring some extenuation of the evils of war.

The conquered peoples must concur, willingly or by force, in the German victory by their material resources, as well as by their labor potential. Means will be found to subject them.

The treatment to which the occupied countries will be subjected is likewise related to this war aim. One could read in *Deutsche Volkskraft* of 13 June 1935 that the totalitarian war will end in a totalitarian victory. "Totalitarian" signifies the entire destruction of the conquered nation and its complete and final disappearance from the historic scene.

Among the conquered peoples distinctions can be made according to whether or not the National Socialists consider them as belonging to the Master Race. For the former, an effort is made to integrate them into the German Reich against their will. For the latter, there

is applied a policy of weakening them and bringing about their extinction by every means, from that of appropriation of their property to that of extermination of their persons. In regard to both groups, the Nazi rulers assault not only the property and physical persons, but also the spirits and souls. They seek to align the populations according to the Nazi dogma and behavior, when they wish to integrate them in the German community; they apply themselves at least to rooting out whatever conceptions are irreconcilable with the Nazi universe; they aim to reduce to a mentality and status of slaves, those men whose nationality they wish to eradicate for the benefit of the German race.

Inspired by these general conceptions as to the conduct to be observed in occupied countries, the defendants gave special orders or general directives or deliberately identified themselves with such. Their responsibility is that of perpetrators, co-perpetrators, or accomplices in the War Crimes systematically committed between 1 September 1939 and 8 May 1945 by Germany at war. They deliberately willed, premeditated, and ordered these crimes, or knowingly associated themselves with this policy of organized criminality.

We shall expose the various aspects of this policy of criminality as it was pursued in the occupied countries of Western Europe, by dealing successively with Forced Labor, Economic Looting, Crimes against Persons, and Crimes against Mankind.

The conception of total war, which gave rise to all the crimes which were to be perpetrated by the Nazi Germans in the occupied countries, was the basis for the forced labor service. Through this institution, Germany proposed to utilize to the maximum the labor potential of the enslaved populations in order to maintain the German war production at the necessary level. Moreover, there can be no doubt that this institution was linked with the German plan of "extermination through labor" of the populations adjoining Germany which she regarded as dangerous or inferior.

A document of the Supreme Command of the Armed Forces of Germany, dated 1 October 1938, provided for the forced employment of prisoners and civilians for war labor. Hitler in his speech of 9 November 1941 "did not doubt for a moment that, in the occupied territories which we control at present, we shall make the last man work for us." From 1942 on, it is under the admitted responsibility of the Defendant Sauckel, acting together with the Defendant Speer, under the control of the Defendant Göring, General Plenipotentiary of the Four Year Plan, that obligatory foreign labor, for the benefit of the war conducted by Germany, was developed to the full.

The most various methods of constraint were utilized simultaneously or successively:

First: Requisition of services under conditions incompatible with Article 52 of the Hague Convention.

Second: So-called voluntary labor, which consisted of bringing a worker under pressure to sign a contract to work in Germany.

Third: Conscription for obligatory labor.

Fourth: The forcing of war prisoners to work for the German war production and their transformation in certain cases into so-called free workers.

Fifth: The enrolling of certain foreign workers, notably French (from Alsace or Lorraine) and Luxembourgers in the German Labor Front.

All these procedures constitute crimes contrary to international law and in violation of Article 52 of the Hague Convention.

These service requisitions were made under threat of death. Voluntary labor recruiting was accompanied by individual measures of constraint, obliging the workers of occupied territories to sign contracts. The duration of these pseudo-contracts was subsequently prolonged unilaterally and illegally by the German authorities.

The failure of these measures of requisition or the voluntary recruitment of labor led the German authorities everywhere to have recourse to conscription. Hitler declared on 19 August 1942 in a conference on the Four Year Plan, which was reported by the Defendant Speer, that Germany "had to proceed to forced recruiting if sufficient labor was not obtained on a voluntary basis." On 7 November 1943 the Defendant Jodl declared in the course of a speech given in Munich before the Gauleiter:

> "In my opinion the time has come to take vigorous, resolute, and hard measures in Denmark, in Holland, in France, and in Belgium in order to force thousands of idle men to carry out this most important work of fortification."

Having accepted the principle of force, the Germans made use of two complementary methods: Legal constraint, consisting of promulgating laws regulating obligatory labor; and restraint in fact, consisting of taking necessary measures to oblige workers under penalty of grave sanctions to conform to the issued legislation.

The basis of the legislation on forced labor is the decree of 22 August 1942 of the Defendant Sauckel, who formulated the charter of forced recruiting in all the occupied countries.

In France, Sauckel got the so-called Government of Vichy to publish the law of 4 September 1942. This law effected the freezing of all manpower in industries and anticipated the possibility of a

requisition of all Frenchmen who might be employed in any work useful to the enemy. All Frenchmen from 18 to 50 years of age, who did not have a job which occupied them more than 30 hours a week, had to prove that they were usefully employed to meet the needs of the country. A decree of 19 September 1942 and an enabling directive of 24 September regulated the various provisions of this announcement. The law of 4 September 1942 had been published by the so-called Government of Vichy, following strong pressure exercised by the occupation authorities. Specifically, Dr. Michel, Chief of the Administrative Staff of the German Military Command in France, wrote on 26 August 1942 a threatening letter to the Delegate General for Franco-German Economic Relations, requesting him that the law be published.

In 1943, Sauckel obtained from the *de facto* authority a directive under date of 2 February, stipulating a census of all male Frenchmen born between 1 January 1912 and 31 December 1921. He also obtained the passing of the law of 16 February, establishing the Bureau of Compulsory Labor for all young men from 20 to 22 years of age. On 9 April 1943, Gauleiter Sauckel requested the deportation of 120,000 workers for the month of May and another 100,000 for the month of June. To accomplish this, the so-called Government of Vichy proceeded to mobilize the entire military conscription class of 1942. On 15 January 1944 Sauckel requested the *de facto* French authorities to deliver 1 million men for the first 6 months of the year; and he caused the adoption of the regulation designated as the law of 1 February 1944, which extended the possibility of impressing all men from 16 to 60 years of age and women from the age of 18 to 45 for forced labor.

Similar measures were taken in all occupied countries.

In Norway, the German authorities imposed on the so-called Government of Quisling the publication of a law dated 3 February 1943, which established the compulsory registration of Norwegian citizens and prescribed their forced enrollment. In Belgium and in Holland, the Bureau of Compulsory Labor was organized directly by ordinances of the occupying power. In Belgium the ordinances were promulgated by the military command, and in Holland by the Defendant Seyss-Inquart, who was Reich Commissar for the occupied Netherland territories. In both of these countries the development of a compulsory labor policy followed the same pattern. Compulsory labor was at first required only within the occupied territories. It was soon extended in order to permit the deportation of workers to Germany. This was achieved, in the case of Holland, by the ordinance of 28 February 1941 and in Belgium by the ordinance of 6 March 1942 which established the principle of forced labor. The principle of deportation was formulated in

Belgium by means of the ordinance of 6 October 1942, and in Holland by the ordinance of 23 March 1942.

In order to ensure the efficiency of these legal provisions, brutal compulsion was exercised in all countries; numerous round-ups in all large cities. For example, 50,000 persons were arrested in Rotterdam on 10 and 11 November 1944.

Even more serious than the forced labor of civilian population was the incorporation of laborers from occupied countries in the labor service of the Reich. This incorporation was not merely the conscription of laborers but the application of German legislation to the nationals of occupied countries.

In the face of the patriotic resistance of the workers of the different occupied countries, the important results which the German Labor Office had anticipated were far from being fulfilled. However, a large number of workers from the occupied countries were forced to work for the German war effort.

With regard to the Todt Organization, the laborers who were employed in the West in the construction of the Atlantic Wall totalled 248,000 at the end of March 1943. In the year 1942, 3,300,000 workers from occupied countries worked for Germany in their own country; among others, 300,000 of these were in Norway, 249,000 in Holland, 650,000 in France. The number of workers deported to Germany and coming from the occupied territories in the West increased in 1942 to the figure of 131,000 Belgians, 135,000 Frenchmen, 154,000 Hollanders. On 30 April 1943, 1,293,000 workmen, of whom 269,000 were women, from the occupied territories in the West were working for the German War Economy.

On 7 July 1944, Sauckel stated that the number of workers deported to Germany during these first 6 months of 1944 reached a total of 537,000, of which 33,000 were Frenchmen. On the 1st of March 1944 he acknowledged, during a conference held by the Central Office of the Four Year Plan, that there were in Germany 5 million foreign workers, of whom 200,000 were actually volunteers.

The report of the French Ministry for prisoners, deportees, and refugees, gives the figure of 715,000 for the total number of men and women who had been deported.

It should be added that, contrary to international law, the workers who were transported to Germany had to work under labor conditions and living conditions that were incompatible with the most rudimentary regard for human dignity. The Defendant Sauckel has himself stated that foreign workers, who could achieve substantial production, should be fed so that they could be exploited as completely as possible with the minimum of expense, adding that they should receive less food the moment their production began

to decrease and that no concern should be given to the fate of those whose production capacity no longer presented any interest. Special reprisal camps were organized for those who sought to avoid the compulsion imposed on them. An order of 21 December 1942 stipulated that unwilling workers should be sent, without trial, to such camps. In 1943 Sauckel, during an inter-ministerial conference, stated that the co-operation of the SS was essential to him in order to fulfill the task with which he had been entrusted. Thus, the crime of forced labor and of deportation gave rise to a whole series of additional crimes against persons.

The work required of war prisoners did not remain within the legal limits authorized by international law any more than did that of the civilian laborers. National Socialist Germany obliged prisoners of war to work for the German war production, in violation of Articles 31 and 32 of the Geneva Convention.

National Socialist Germany, while exploiting to the fullest extent for the war effort prisoners as well as workers from occupied territories against all international conventions, was at the same time seizing, by every possible means, the wealth of these countries. German authorities applied systematic pillage in these countries. By economic pillage we mean both the taking away of goods of every type and the exploitation, on the spot, of the national resources for the benefit of Germany's war.

This pillage was methodically organized.

The Germans began by making sure that they had in their possession, in all countries, the necessary means for payment. Thus, they insured that they could seize, with the appearance of legality, the wealth which they coveted. After freezing the existing purchasing power, they required enormous payments under the pretext of indemnity for the maintenance of occupation troops.

It should be recalled that, according to the terms of the Hague Convention, occupied countries may be obliged to assume the burden of the expenses caused by the maintenance of an army of occupation. But the amounts that were exacted under this by the Germans were only remotely related to the actual costs of occupation.

Moreover, they forced the occupied countries to accept a clearing system which operated practically for the exclusive profit of Germany. Imports from Germany were almost non-existent; the goods exported to Germany by the occupied countries were subject to no regulation.

In order to maintain for the purchasing balance thus created a considerable purchasing power, the Germans endeavored everywhere to achieve the stabilization of prices and imposed a severe rationing system. This rationing system, which left the population

with a quantity of inferior goods which was less than the minimum indispensable for their existence, afforded the additional advantage of preserving for the benefit of the Germans the greatest possible portion of the production.

Thus, the Germans seized a considerable part of the stocks and of the production as a result of operations which had the appearance of legality (requisitions, purchases made with German priority coupons, individual purchase). These transactions were completed by other operations of a clandestine character, which were carried out in violation of the official regulations imposed, frequently by the Germans themselves. Thus, the Germans had created a whole organization for black market purchases. For example, one may read in a report of the German Foreign Ministry of 4 September 1942 that the Defendant Göring had ordered that purchases on the black market should henceforth extend to goods which until then had not been included, such as household goods; and he prescribed further that all goods which could be useful to Germany should be collected, even if as a result certain signs of inflation appeared in the occupied countries.

While they were transporting to Germany the maximum quantity of goods of every description, after requisitioning without payment or by paying with bills which they had irregularly obtained by a simple entry in the clearing account, the Nazi leaders were at the same time endeavoring to impose the resumption of activity in industry for the benefit of Germany's war.

German industrialists had received instructions ordering them to divide among themselves the enterprises in the occupied areas which had engaged in a production similar to their own. While having to carry out these orders, these industrialists were required to place such industries in occupied countries firmly under their control by means of different types of financial combinations.

The appearance of monetary legality or contractual legality could in no way hide the fact that economic looting was systematically organized, contrary to the stipulations of the International Convention of The Hague. If, according to the stipulations of this Convention, Germany had the right to seize whatever was indispensable for the maintenance of the troops necessary for the occupation, all seizures in excess of these requirements undoubtedly constitute a war crime, which brought about the economic ruin of the occupied countries, a long-range weakening of their economic potential and of their means of subsistence, as well as the general undernourishment of the populations.

Exact estimates of German transactions in the economic field cannot be formulated at this time. It would be necessary for this

purpose to study in detail the activities of several countries over a period of more than 4 years.

Nevertheless it has been possible to bring out precisely certain facts and to give minimum estimates of German spoliations with respect to the different occupied countries.

In Denmark, which was the first country in western Europe to be invaded, the value of German seizures was nearly 8,000 million crowns. In Norway, Germany's spoliations exceed a total value of 20,000 million crowns.

In the Netherlands, German pillage was effected to such an extent that although Holland is one of the richest countries in the world in relation to its population, it is today almost completely ruined and the financial charges imposed by the occupant exceed 20,000 million guilders.

In Belgium, through various schemes, notably the system of occupation indemnity and clearing, the Germans seized far more than 130,000 million Belgian francs of payment balances. The Grand Duchy of Luxembourg also suffered important losses as a result of the action of the occupying power.

Finally in France the levying of taxes on means of payments reached a total of 745,000 million francs. In this sum we have not included the 74,000 million francs, which represents the maximum figure which Germany could legally demand for the maintenance of her army of occupation. (Moreover, the seizure of 9,500 million in gold was calculated according to the rate of 1939.)

In addition to the goods settled for in the occupied countries by Germany, by means of payment extorted from these countries, enormous quantities of goods of every character were purely and simply requisitioned without any indemnity, seized without any explanation, or else stolen. The occupying authorities not only took all raw materials and manufactured goods which could be useful to their war efforts, but they extended their seizures to everything that might help to procure them a credit balance in neutral countries, such as movables, jewels, luxury goods, and objects of all kinds. Finally, the art treasures of the countries of western Europe were likewise looted in the most shameful manner.

The considerable sums which Germany was able to obtain by abusing her power, contrary to all the principles of international law, without providing any compensation, enabled her to carry out with the appearance of legality, the economic looting of France and of the other countries of western Europe. The consequence for these countries, from the economic viewpoint, is a loss of their strength which will take long to repair.

But the most serious consequence of these practices affected the population itself. For more than 4 years the people of the occupied countries were exposed to a regime of slow starvation, which resulted in an increase in the death rate, a breaking down of the physical stamina of the population and, above all, an alarming deficiency in the growth of children and adolescents.

Such practices perpetrated and consummated systematically by the German leaders, contrary to international law and specifically contrary to the Hague Convention, as well as contrary to the general principles of criminal law in force in all civilized nations, constitute War Crimes for which they must answer before Your High Tribunal.

THE PRESIDENT: Would that be a convenient time to break off?

[The Tribunal recessed until 1400 hours.]

Afternoon Session

M. DE MENTHON: Crimes against the physical person—arbitrary imprisonment, ill-treatment, deportations, murder committed by the Germans in the occupied countries—reached proportions beyond imagination, even in the course of a world conflict, and took the most odious forms.

These crimes spring directly from the Nazi doctrine and testify to the Reich leaders' absolute disregard for the human individual, to the abolition of any sense of justice or even of pity, to a total subordination of any and all human consideration on the part of the German community.

All these crimes are linked to a policy of terrorism. Such a policy permits the subjugation of occupied countries without involving a large deployment of troops and their submission to anything that might be demanded of them. Many of these crimes are moreover tied up with the will to exterminate.

We shall examine in succession executions of hostages, police crimes, deportations, crimes involving prisoners of war, terroristic activities against the Resistance, and the massacre of civilian populations.

A. The execution of hostages constitutes in all countries the first act of terrorism on the part of German occupation troops. From 1940 on, the German command, notably in France, carried out numerous executions as reprisals for any crime against the German Army.

These practices, contrary to Article 50 of the Hague Convention which forbids collective sanctions, awaken everywhere a feeling of horror and frequently produce a result contrary to the one sought, by arousing the populations against the occupant.

The occupying authorities then endeavored to legalize such criminal practices, thus seeking to have them recognized by the populations as "the right" of the occupying power. Veritable "codes for hostages" were promulgated by the German military authorities.

Following the general order issued by the Defendant Keitel on 16 September 1941, Stülpnagel published in France his ordinance of 30 September 1941. According to the terms of this ordinance, all Frenchmen held by German authorities for any reason whatsoever were to be considered as hostages, as well as all Frenchmen who were in the custody of the French authorities on behalf of German organizations. The ordinance of Stülpnagel specifies:

"At the time of the burial of the bodies, burial in a common grave of a rather large number of persons in a particular

cemetery must be avoided, since this would create a shrine for pilgrims which now or later might become a center for the stimulation of anti-German propaganda."

In carrying out this ordinance the most infamous executions of hostages were committed.

Following the murder of two German officers, one in Nantes on 2 October 1941 and the other at Bordeaux a few days thereafter, the German authorities had 27 hostages shot at Châteaubriant and 21 at Nantes.

On 15 August 1942, 96 hostages were shot at Mon-Valérien.

In September 1942 an assault had been committed against German soldiers in the Rex motion picture house in Paris. One hundred sixteen hostages were shot.

Forty-six hostages were taken from the hostage depot of the Fortress at Romainville and 70 from Bordeaux.

In reprisal for the murder of a German official of the labor front 50 hostages were shot in Paris at the end of September 1943.

Threats of reprisals on the families of the patriots of the Resistance are related to the same odious policy of hostages. The Kommandantur published the following notice in the *Pariser Zeitung* of 16 July 1942:

"Near male relatives, brothers-in-law, and cousins of the 'agitators' above the age of 18 years will be shot.

"All female family members of the same degree of relationship shall be condemned to forced labor.

"Children less than 18 years of age of all above-mentioned persons shall be sent to a house of correction."

The executions of hostages continued everywhere until the liberation, but in the last period they were no more than one additional feature in the methods of German terrorism, then grown more sweeping.

B. Among the crimes against persons of which the civilian populations of the occupied countries of the West were victims, those committed by the Nazi police organizations are the most revolting. The intervention of the German police who, in spite of certain appearances, did not belong to the armies of occupation, is in itself contrary to international law. Their crimes, particularly hateful in the complete disregard for human dignity that they imply, were multiplied during 4 years throughout all the territories of the West occupied by the German forces.

True, no definite order, no detailed directive emanating directly from one of the defendants or from one of their immediate subordinates and valid for all the German police or for the police of the occupied territories of the West, has been found. But these

crimes were committed by a police that was a direct expression of the National Socialist ideology and the undeniable instrument of National Socialist policy for which all the defendants carry the full and entire responsibility.

Before the considerable mass of acts, their similarity, their simultaneousness, their generalization in time and place, no one would be able to deny that these acts are not only the individual responsibility of those who committed them here or there, but constitute as well the execution of orders from above.

The arrests took place without any of the elementary guarantees recognized in all civilized countries. On a simple, unverified denunciation, without previous investigation, and often on charges brought by persons not qualified to bring them, masses of arbitrary arrests took place in every occupied country.

During the first period of the occupation, the Germans nevertheless simulated a scrupulous respect for "legality" in the matter of arrests. This legality was that introduced by Nazism in the interior of Germany and did not respect any of the traditional guarantees to which the individuals in civilized countries are entitled. But, rapidly, even this pseudo-legality itself was abandoned and the arrests became absolutely arbitrary.

The worst treatments were applied to arrested persons even before the guilt of the accused had been examined. The use of torture in the interrogations was almost a general rule. The tortures usually applied were beating, whipping, chaining for several days without a moment of rest for nourishment or hygienic care, immersion in ice water, drowning in a bathtub, charging the bathwater with electricity, electrification of the most sensitive parts of the body, burns at certain places on the body, and the pulling out of fingernails. But, in addition, those who carried out these measures had every latitude for unleashing their instinct of cruelty and of sadism towards their victims. All those facts, which were of public knowledge in the occupied countries, never led to any punishment whatsoever of their authors on the part of the responsible authorities. It even seems that the torture was more severe when an officer was present.

It is undeniable that the actions of the German police towards the prisoners were part and parcel of a long premeditated system of criminality, ordered by the chiefs of the regime and executed by the most faithful members of the National Socialist organizations.

Aside from the general use of torture on prisoners, the German police perpetrated a considerable number of murders. It is impossible to know the conditions under which many of these murders were carried out. Nevertheless, we have enough information to permit us to discover in them a new expression of the general

policy of the National Socialists in the occupied countries. Often the deaths were only the result of the tortures inflicted on the prisoners, but often the murder was deliberately desired and carried out.

C. The crime which will undoubtedly be remembered as the most horrible among those committed by the Germans against the civilian populations of the occupied countries was that of deportation and internment in the concentration camps of Germany.

These deportations had a double aim: To secure additional labor for the benefit of the German war machine; to eliminate from the occupied countries and progressively exterminate the elements most opposed to Germanism. They served likewise to empty prisons overcrowded with patriots and to remove the latter for all time.

The deportations and the methods employed in the concentration camps were a stupefying revelation for the civilized world. Nevertheless, they also are only a natural consequence of the National Socialist doctrine, according to which man, of himself, has no value except when he is of service to the German race.

It is not possible to give exact figures. It is probable that one would make an understatement when speaking of 250,000 for France; 6,000 for Luxembourg; 5,200 for Denmark; 5,400 for Norway; 120,000 for Holland; and 37,000 for Belgium.

The arrests are founded, now under a pretext of a political nature, now on a pretext of a racial nature. In the beginning they were individual; subsequently they took on a collective character, particularly in France since the end of 1941. Sometimes the deportation did not come until after long months of prison, but more often the arrest was made directly with a view to deportation under the system of "protective custody." Everywhere imprisonment in the country of origin was accompanied by brutality, often by tortures. Before being sent to Germany, the deportees were, in general, concentrated in an assembly camp. The formation of a convoy was often the first stage of extermination. The deportees travelled in cattle cars, 80 to 120 per car, no matter what the season. There were few convoys where no deaths occurred. In certain transports the proportion of deaths was more than 25 percent.

The deportees were sent to Germany, almost always to concentration camps, but sometimes also to prisons.

Admitted to the prisons were those deportees who had been condemned or were awaiting trial. The prisoners there were crowded together under inhumane conditions. Nevertheless, the prison regime was generally less severe than conditions in the camps. The work there was less out of proportion to the strength of the prisoners, and the prison wardens were more humane than the SS in the concentration camps.

It appears to have been the plan, followed by the Nazis in the concentration camps, gradually to do away with the prisoners; but only after their working strength had been used to the advantage of the German war effort.

The Tribunal has been told of the almost inconceivable treatment inflicted by the SS on the prisoners. We shall take the liberty of going into still further detail during the course of the statement of the French Prosecution, for it must be fully known to what extent of horrors the Germans, inspired by National Socialist doctrine, could stoop.

The most terrible aspect was perhaps the desire to create moral degradation and debasement in the prisoner until he lost, if possible, all semblance of a human individual.

The usual living conditions imposed on the deportees in the camps were sufficient to ensure slow extermination through inadequate feeding, bad sanitation, cruelty of the guards, severity of discipline, strain of work out of proportion to the strength of the prisoner, and haphazard medical service. Moreover, you already know that many did not die a natural death, but were put to death by injections, gas chambers, or inoculations of fatal diseases. But more speedy extermination was often the case; it was often brought about by ill-treatment: Communal ice-cold showers in winter in the open air, prisoners left naked in the snow, cudgelling, dog bites, hanging by the wrists.

Some figures will illustrate the result of these various methods of extermination. At Buchenwald, during the first 3 months of 1945, there were 13,000 deaths out of 40,000 internees. At Dachau, 13,000 to 15,000 died in the 3 months preceding the liberation. At Auschwitz, a camp of systematic extermination, the number of murdered persons came to several millions.

As to the total number of those deported from France, the official figure is as follows: Of 250,000 deported only 35,000 returned.

The deportees served as guinea pigs for numerous medical, surgical, or other experiments which generally led to their death. At Auschwitz, at Struthof, in the prison at Cologne, at Ravensbrück, at Neuengamme, numerous men, women, and children were sterilized. At Auschwitz the most beautiful women were set apart, artificially fertilized, and then gassed. At Struthof a special barrack, isolated from the others by barbed wire, was used to inoculate men in groups of 40 with fatal illnesses. In the same camp women were gassed while German doctors observed their reactions through a peephole arranged for this purpose. Extermination was often directly effected by means of individual or collective

executions. These were carried out by shooting, by hanging, by injections, by gas vans, or gas chamber.

I should not wish to stress further the facts, already so numerous, submitted to Your High Tribunal during the preceding days by the American Prosecution, but the representative of France, so many of his people having died in these camps after horrible sufferings, could not pass in silence over this tragic example of complete inhumanity. This would have been inconceivable in the 20th century, if a doctrine of return to barbarism had not been established in the very heart of Europe.

D. Crimes committed against prisoners of war, although less known, bear ample testimony to the degree of inhumanity which Nazi Germany had attained.

To begin with, the violations of international conventions committed against prisoners of war are numerous. Many were forced to travel on foot, almost without food, for very long distances. Many camps had no respect for even the most elementary rules of hygiene. Food was very often insufficient; thus a report from the WFSt of the OKW dated 11 April 1945 and annotated by the Defendant Keitel, shows that 82,000 prisoners of war interned in Norway received the food strictly indispensable to the maintenance of life on the assumption that they were not working, whereas 30,000 of them were really employed on heavy work.

In agreement with the Defendant Keitel, acting at the request of the Defendant Göring, camps for prisoners belonging to the British and American Air Forces were established in towns which were exposed to air raids.

In violation of the text of the Geneva Convention, it was decided, at a conference held at the Führer's headquarters on 27 January 1945, in the presence of the Defendant Göring, to punish by death all attempts to escape made by prisoners of war when in convoy.

Besides all these violations of the Geneva Convention, numerous crimes were committed by the German authorities against prisoners of war: Execution of captured allied airmen, murder of commando troops, collective extermination of certain prisoners of war for no reason whatsoever—for example the matter of 120 American soldiers at Malmédy on 27 January 1945. Parallel with "Nacht und Nebel," an expression for the inhumane treatment inflicted on civilians, can be put down the "Sonderbehandlung," a "special treatment" of prisoners of war, in which these disappeared in great numbers.

E. The same barbarism is found in the terroristic activity carried out by the German Army and Police against the Resistance.

The order of the Defendant Keitel of 16 September 1941, which may be considered as a basic document, certainly has as a purpose the fight against the Communist movements; but it anticipates that resistance to the army of occupation can come from other than Communist sources and decides that every case of resistance is to be interpreted as having a Communist origin.

As a matter of fact, in carrying out this general order to annihilate the Resistance by every possible means, the Germans arrested, tortured, and massacred men of all ranks and all classes. To be sure, the members of the Resistance rarely complied with the conditions laid down by the Hague Conventions, which would qualify them to be considered as regular combat forces; they could be sentenced to death as *francs-tireurs* and executed. But they were assassinated without trial in most cases, often after having been terribly tortured.

After the liberation, numerous charnel-houses were discovered and the bodies examined by doctors: They bore obvious traces of extreme brutal treatment, cranial tissue was pulled out, the spinal column had been dislocated, the ribs had been so badly fractured that the chest had been entirely crushed and the lungs perforated, hair and nails had been pulled out. It is impossible to determine the total number of the victims of German atrocities in the fight against the Resistance. It is certainly very high. In the department of the Rhône alone, for example, the bodies of 713 victims were discovered after the liberation.

An order of 3 February 1944 of the Commander-in-Chief of the forces in the West, signed "By order General Sperrle," laid down for the fight against the terrorists immediate reply by fire-arms and the immediate burning down of all houses from which shots had come:

> "It is of little importance"—the text adds—"that innocent people should suffer. It will be the fault of the terrorists. All commanders of troops who show weakness in repressing the terrorists will be severely punished. On the other hand, those who go beyond the orders received and are too severe will incur no penalty."

The war diary of Von Brodowski, commanding Liaison Headquarters Number 588, at Clermont-Ferrand, gives irrefutable examples of the barbarous forms which the Germans gave to the struggle against the Resistance. The resisters caught were almost all shot on the spot. Others were turned over to the SD or the Gestapo to be subjected first to torture. The diary of Brodowski mentions "the cleaning up of a hospital" or "liquidation of an infirmary."

The struggle against the Resistance had the same atrocious character in all the occupied territories of the West.

F. The last months of the German occupation were characterized in France by a strengthening of the policy of terrorism which multiplied the crimes against the civilian population. The crimes which we are going to consider were not isolated acts committed from time to time in this or that locality, but were acts perpetrated in the course of extensive operations, the high number of which can be explained only by general orders.

The perpetrators of these crimes were frequently members of the SS, but the military command shares responsibility for them. In a directive entitled "Fight against the Partisan Bands," dated 6 May 1944, the Defendant Jodl states that:

> "... the collective measures to be taken against the inhabitants of entire villages (including the burning down of these villages) are to be ordered exclusively by the division commanders or the heads of the SS and of the police."

The war diary of Von Brodowski mentions the following: "It is understood that the leadership of the Sipo and of the SD shall be subordinate to me."

These operations are supposedly measures of reprisal which were caused by the action of the Resistance. But the necessities of war have never justified the plundering and heedless burning down of towns and villages nor the blind massacres of innocent people. The Germans killed, plundered, burned down, very often without any reason whatsoever, whether in Ain, in Savoie, Lot, or Tarn-and-Garonne, in Vercors, Corréze, in Dordogne. Entire villages were burned down at a time when the nearest armed groups of the Resistance were tens of kilometers away and the population of these villages had not made a single hostile gesture towards the German troops.

The two most typical examples are those of Maillé (in Indre-et-Loire) where on 25 August 1944, 52 buildings out of 60 were destroyed and 124 people were killed; and that of Oradour-sur-Glane (in the Haute-Vienne). The war diary of Von Brodowski makes mention of the latter act in the following manner:

> "All the male population of Oradour was shot. The women and children took refuge in the church. The church caught fire. Explosives were stored in the church. (This assertion has been shown to be false.) Also women and children perished."

In the scale of criminal undertakings, perpetrated in the course of the war by the leaders of National Socialist Germany, we finally meet a category which we have called crimes against human status *(la condition humaine).*

First of all it is important that I should define clearly for the Tribunal the meaning of this term. This classical French expression belongs both to the technical vocabulary of law and to the language of philosophy. It signifies all those faculties, the exercising and developing of which rightly constitute the meaning of human life. Each of these faculties finds its corresponding expression in the order of man's existence in society. His belonging to at least two social groups—the nearest and the most extensive—is translated by the right to family life and to nationality. His relations with the powers constitute a system of obligations and guarantees. His material life, as producer and consumer of goods, is expressed by the right to work in the widest meaning of this term. Its spiritual aspect implies a combination of possibilities to give out and to receive the expressions of thought, whether in assemblies or associations, in religious practice, in teachings given or received, by the many means which progress has put at the disposal for the dissemination of intellectual value: Books, press, radio, cinema. This is the right of spiritual liberty.

Against this human status, against the status of public and civil rights of the human beings in occupied territories, the German Nazis directed a systematic policy of corruption and demoralization. We shall treat this question last because it is this undertaking which presents a character of the utmost gravity and which has assumed the most widespread prevalence. Man is more attached to his physical integrity and to life than to his property. But in all high conceptions of life, man is even less attached to life than to that which makes for his dignity and quality, according to the great Latin maxim, "*Et propter vitam, vivendi perdere causas.*" On the other hand, if, in the territories occupied by them, the Germans did not, in spite of the importance and extent of their crimes, plunder all the property and goods and if they did not kill all the people, there remains not a single man whose essential rights they did not change or abolish and whose condition as a human being they did not violate in some way.

We can even say that in the entire world and as regards all people, even those to whom they reserved the privileges belonging to the superior race and even as regards themselves, their agents, and accomplices, the Nazi leaders committed a major offense against the conscience which mankind has today evolved from his status as a human being. The execution of the enterprise was preceded by its plan. This is manifest in the entire Nazi doctrine and we shall content ourselves by recalling a few of its dominant features. The human status expresses itself, we say, in major statutes, every one of which comprises a complex apparatus of very different provisions. But these statutes are inspired in the laws of civilized

countries by a conception essential to the nature of man. This conception is defined in two complementary ideas: The dignity of the human being considered in each and every person individually, on the one hand; and on the other hand, the permanence of the human being considered within the whole of humanity. Every juridical organization of the human being in a state of civilization proceeds from this essential, two-fold conception of the individual, in each and in all, the individual and the universal.

Without doubt, to Occidentals this conception usually appears connected with the Christian doctrine; but, if it is exact that Christianity is bound up with its affirmation and diffusion, it would be a mistake to see in it only the teachings of one or even of certain religions. It is a general conception which imposes itself quite naturally on the spirit: It was professed since ancient pre-Christian times; and, in more recent times, the great German philosopher Kant expressed it in one of his most forceful formulas, by saying that a human being should always be considered as an end and never a means.

The role, as we have already exposed, of the zealots of the Hitlerian myth was to protest against the spontaneous affirmation of the genius of mankind and to pretend to break at this point the continuous progress of moral intelligence. The Tribunal is already acquainted with the abundant literature of this sect. Without a doubt, nobody expressed himself more clearly than the Defendant Rosenberg when he declared in the *Myth of the 20th Century,* Page 539:

> "Peoples whose health is dependent on their blood do not know individualism as a criterion of values any more than they recognize universalism. Individualism and universalism in the absolute sense and historically speaking, are the ideological concepts of decadence."

Nazism professes, moreover, that:

> "The distance between the lowest human being still worthy of this name, and our higher races, is greater than that between the lowest type of mankind and the best educated monkey." *(Die Reden Hitlers,* Reichsparteitag 1933, Page 33).

Thus, it is not only a question of abolishing the truly divine conception which religion sets forth as regards man, but even of setting aside all purely human conceptions and substituting for it an animalistic conception.

As a consequence of such a doctrine, the upsetting of the human status appears not only to be a means to which one has recourse in the presence of temporary opportunities, such as those arising from war, but also as an aim both necessary and desirable. The

Nazis propose to classify mankind in three main categories: That of their adversaries, or persons whom they consider inadaptable to their peculiar constructions—this category can be bullied in all sorts of ways and even destroyed; that of superior men which they claim is distinguishable by their blood or by some arbitrary means; that of inferior men, who do not deserve destruction and whose vital power should be used in a regime of slavery for the well-being of the "overlords."

The Nazi leaders proposed to apply this conception everywhere they could in territories more and more extended, to populations ever more numerous; and in addition they demonstrated the frightful ambition to succeed in imposing it on intelligent people, to convince their victims and to demand from them, in addition to so many sacrifices, an act of faith. The Nazi war is a war of fanatic religion in which one can exterminate infidels and equally as well impose conversion upon them. It should further be noted that the Nazis aggravated the excesses of those horrible times, for in a religious war converted adversaries were received like brothers, whereas the Nazis never gave their pitiable victims the chance of saving themselves, even by the most complete recantation.

It is by virtue of these conceptions that the Germans undertook the Germanization of occupied territories and had, without doubt, the intention of undertaking to germanize the whole world. This Germanization can be distinguished from the ancient theories of Pan-Germanism insofar as it is both a Nazification and an actual return to barbarism.

Racialism classifies occupied nations into two main categories; Germanization means for some a National Socialist assimilation, and for others disappearance or slavery. For human beings of the so-called "higher race," the favored condition assigned to them comprises the falling-in with the new concepts of the Germanic community. For human beings of the so-called "inferior race" it was proposed either to abolish all rights while waiting or preparing their physical destruction, or to assign them to servitude. For both, racialism means acceptance of the Nazi myths.

This two-fold program of absolute Germanization was not carried out in its entirety nor in all the occupied countries. The Germans had conceived it as a lengthy piece of work which they intended to carry out gradually, by a series of successive measures. This progressive approach is always characteristic of the Nazi method. It fits in, apparently, with the variety of obstacles encountered, with the hypocritical desire of sparing public opinion, and with a horrid lust for experimenting and scientific ostentation.

When the countries were liberated, the state of the Germanization varied a great deal according to the different countries, and

in each country according to such and such category of the population. At times the method was driven on to its extreme consequences; elsewhere, one only discovers signs of preparatory arrangements. But it is easy to note everywhere the trend of the same evil, interrupted at different moments in its development, but everywhere directed by the same inexorable movement.

As regards national status, the Germans proceeded to an annexation, pure and simple, in Luxembourg, in the Belgian cantons of Eupen and of Malmédy, and in the French departments of Alsace and of Lorraine. Here the criminal undertaking consisted both in the abolition of the sovereignty of the state, natural protector of its nationals, and in the abolition for those nationals of the status they had as citizens of this state, a status recognized by domestic and international law.

The inhabitants of these territories thereby lost their original nationality, ceasing to be Luxembourgers, Belgians, or French. They did not acquire, however, full German nationality; they were admitted only gradually to this singular favor, on the further condition that they furnish certain justifications therefor.

The Germans sought to efface in them even the memory of their former country. In Alsace and in Moselle the French language was banned; names of places and of people were germanized.

New citizens or mere subjects were equally subjected to the obligations relating to the Nazi regime: To forced labor, as a matter of course, and soon to military conscription. In case of resistance to these unjust and abominable orders, since it was a matter of arming the French against their allies and in reality against their own country, sanctions were brought to bear, not only against the parties concerned, but even against the members of their families, following the theses of Nazi law, which brush aside the fundamental principles of law against repression.

Persons who appeared recalcitrant to Nazification, or even those who seemed of little use to Nazi enterprises, became victims of large-scale expulsions, driven from their homes in a few short hours with their most scanty baggage, and despoiled of their property.

Yet this inhuman evacuation of entire populations, which will remain one of the horrors of our century, appears as favorable treatment when compared to the deportations which were to fill the concentration camps, in particular the Struthof Camp in Alsace.

At the same time that they oppressed the population by force and in contravention of all law, the Nazis undertook, according to their method, to convince the people of the excellence of their

regime. The young people especially were to be educated in the spirit of National Socialism.

The Germans did not proceed to the annexation, properly speaking, of other areas than those we have named. It is beyond doubt, however, and confirmed by numerous indications, that they proposed to annex territories much more important by applying to them the same regime, if the war had ended in a German victory. But everywhere they prepared for the abolition or the weakening of the national status by debarring or damaging the sovereignty of the state involved and by forcing the destruction of patriotic feelings.

In all the occupied countries, whether or not there existed an apparent governmental authority, the Germans systematically disregarded the laws of occupation. They legislated, regulated, administered. Besides the territories annexed outright, the other occupied territories also were in a state that might be defined as a state of pre-annexation.

This leads to a second aspect which is the attack on spiritual security. Everywhere, although with variation in time and space, the Germans applied themselves to abolishing the public freedoms, notably the freedom of association, the freedom of the press; and they endeavored to trammel the essential freedoms of the spirit.

The German authorities subordinated the press to the strictest censorship, even in matters devoid of military character; a press, many of whose representatives, moreover, were inspired by them. Manifold restrictions were imposed on industry and on the moving picture business. Numerous works altogether without political character were banned, even textbooks. Religious authorities themselves saw their clerical realm invaded and words of truth could not be heard. After having curtailed freedom of expression even beyond the degree that a state of war and occupation justified, the Germans developed their National Socialist propaganda systematically through the press, radio, films, meetings, books, and posters. All these efforts achieved so little result that one might attempt today to minimize their importance. Nevertheless, the propaganda conducted by means most contrary to the respect due human intelligence and on behalf of a criminal doctrine, must go down in history as one of the disgraces of the National Socialist regime.

No less did the Germanization program compromise human rights in the other broad aspects that we have defined: Right of the family, right of professional and economic activity, juridical guarantees. These rights were attacked; these guarantees were curtailed. The forced labor and the deportations infringed the rights of the family, as well as the rights of labor. The arbitrary

arrests suppressed the most elementary legal guarantees. In addition, the Germans tried to impose their own methods on the administrative authorities of the occupied countries and sometimes unfortunately succeeded in their attempts.

It is also known that racial discriminations were provoked against citizens of the occupied countries who were catalogued as Jews, measures particularly hateful, damaging to their personal rights and to their human dignity.

All these criminal acts were committed in violation of the rules of international law, and in particular the Hague Convention, which limits the rights of armies occupying a territory.

The fight of the Nazis against the human status completes the tragic and monstrous totality of war criminality of Nazi Germany, by placing her under the banner of the abasement of man, deliberately brought about by the National Socialist doctrine. This gives it its true character of a systematic undertaking of a return to barbarism.

Such are the crimes which National Socialist Germany committed while waging the war of aggression that she launched. The martyred peoples appeal to the justice of civilized nations and request Your High Tribunal to condemn the National Socialist Reich in the person of its surviving chiefs.

Let the defendants not be astonished at the charges brought against them and let them not dispute at all this principle of retroactivity, the permanence of which was guaranteed, against their wishes, by democratic legislation. War Crimes are defined by international law and by the national law of all modern civilizations. The defendants knew that acts of violence against the persons and property and human status of enemy nationals were crimes for which they would have to answer before international justice.

The Governments of the United Nations have addressed many a warning to them since the beginning of the hostilities.

On 25 October 1941 Franklin Roosevelt, President of the United States of America, and Winston Churchill, Prime Minister of Great Britain, announced that the war criminals would not escape just punishment:

> "The massacres of France"—said Churchill—"are an example of what Hitler's Nazis are doing in many other countries under their yoke. The atrocities committed in Poland, Yugoslavia, Norway, Holland, Belgium, and particularly behind the German front in Russia, exceed anything that has been known since the darkest and most bestial ages of humanity. The punishment of these crimes should now be counted among the major goals of the war."

During autumn 1941 the representatives of the governments of the occupied countries met in London upon the initiative of the Polish and Czech Governments. They worked out an inter-Allied declaration which was signed on 13 January 1942. May I remind the Tribunal of its terms:

"The undersigned, representing the Governments of Belgium, of Czechoslovakia, the National Committee of Free France, the Governments of Greece, of Luxembourg, of the Netherlands, of Poland, and of Yugoslavia,

"Whereas Germany, from the beginning of the present conflict, which was provoked by her policy of aggression, set up in the occupied countries a regime of terror characterized, among other things, by imprisonment, mass expulsions, massacres, and execution of hostages;

"Whereas these acts of violence are committed equally by the allies and associates of the Reich, and in certain countries by citizens collaborating with the occupying power;

"Whereas international solidarity is necessary in order to prevent these deeds of violence from giving rise to acts of individual or collective violence, and finally in order to satisfy the spirit of justice in the civilized world;

"Recalling to mind that international law and, in particular, the Hague Convention signed in 1907, concerning the laws and customs of land warfare, do not permit belligerents to commit acts of violence against civilians in occupied countries, or to violate laws which are in force or to overthrow national institutions;

"1. Affirming that acts of violence thus committed against civilian populations have nothing in common with the conceptions of an act of war or a political crime as this is understood by civilized nations;

"2. Taking note of the declarations made in this respect on 25 October 1941, by the President of the United States of America and the British Prime Minister;

"3. Placing among their chief war aims, the punishment by means of organized justice of those guilty of, or responsible for, these crimes, whether they ordered, perpetrated, or shared in them;

"4. Having decided to see to it in a spirit of international solidarity that: a) Those guilty or responsible, whatever their responsibility, shall be sought out, brought to justice, and be judged; b) that the sentences pronounced shall be executed.

"In faith whereof, the undersigned, being duly authorized, to this effect have signed this declaration."

The leaders of National Socialist Germany received other warnings. I refer to the speech of General De Gaulle of 13 January 1942; that of Churchill of 8 September 1942; the note of Molotov, Commissar of the People for Foreign Affairs of the Soviet Union, of 14 October 1942; and the second inter-Allied declaration of 17 December 1942. The latter was made simultaneously in London, Moscow, and Washington after receipt of information according to which the German authorities were engaged in exterminating the Jewish minorities in Europe. In this declaration, the Governments of Belgium, Czechoslovakia, Greece, Luxembourg, the Netherlands, Norway, Poland, the United States of America, the United Kingdom, the Soviet Union, Yugoslavia, and the French National Committee which represented the continuation of France, solemnly reaffirmed their will to punish the war criminals who are responsible for this extermination.

THE PRESIDENT: Would this be a convenient time to break off for 10 minutes?

[A recess was taken.]

M. DE MENTHON: The premises for a just punishment are thus fulfilled. The defendants, at the time when they committed their crimes, knew the will of the United Nations to bring about their punishment. The warnings which were given to them contain a definition which precedes the punishment.

The defendants, moreover, could not be ignorant of the criminal nature of their activities. The warnings of these Allied governments in effect translated in a political form the fundamental principles of international and of national law which permit the punishment of war criminals to be established on positive precedents and positive rules.

The founders of international law had a presentiment of the concept of war crime, particularly Grotius who elucidated the criminal character of needless acts of war. The Hague Conventions, after the lapse of several centuries, established the first generally binding standards for laws of war. They regulated the conduct of hostilities and occupation procedures; they formulated positive rules in order to limit recourse to force and to bring the necessities of war into agreement with the requirements of human conscience. War Crimes thus received the first definition under which they may be considered; they became a violation of laws and customs of war as codified by the Hague Convention.

Then came the war of 1914. Imperial Germany waged the first World War with a brutality perhaps less systematic and frenzied than that of the National Socialist Reich, but just as deliberate. The deportation of workers, looting of public and private property, the taking and killing of hostages, the demoralization of the

occupied territories constituted, in 1914 as in 1939, the political methods of German warfare.

The Treaty of Versailles was based on the Hague Convention in order to establish the suppression of War Crimes. Under the title "Sanctions" Chapter VII of the Treaty of Versailles discusses criminal responsibility incurred in the launching and waging of the conflict which was then the Great War. Article 227 accused William of Hohenzollern, previously Emperor of Germany, of a supreme offense against international morality and against the sacred character of treaties. Article 228 acknowledged the right of the Allied and Associated Powers to bring persons guilty of acts contrary to the laws and customs of war before military tribunals. Article 229 provided that criminals whose acts were not of precise geographical location were to be referred to inter-Allied jurisdiction.

The provisions of the Treaty of Versailles were repeated in the conventions which were signed in 1919 and 1920 with the powers allied with Germany, in particular in the Treaty of Saint-Germain and in that of Neuilly. That is how the idea of war crime was affirmed in international law. The peace treaties of 1919 not only defined the concept of infraction, they formulated the terms of its repression. The defendants were aware of this, just as they were aware of the warnings of the governments of the United Nations. They no doubt hoped that the repetition of the factual circumstances, which hampered the punishment of the criminals in 1914, would permit them to escape their just punishment. Their presence before this Tribunal is the symbol of the constant progress which international law is making in spite of all obstacles.

International law had given a still more precise definition of the term "war crime." This definition was formulated by the commission which the preliminary peace conference appointed on 25 January 1919 to disentangle the various responsibilities incurred in the course of the war. The report of the Commission of Fifteen of 29 March 1919 constitutes the historical basis of Articles 227 and following of the Treaty of Versailles. The Commission of Fifteen based its investigation of criminal responsibilities on an analysis of the crimes liable to involve them. A material element enters into the juridical settlement of any infraction. Its definition is, therefore, the more precise as it includes an enumeration of the facts which it encompasses. That is why the Commission of Fifteen set up a list of War Crimes. This list includes 32 infractions. These are particularly:

1. Murders, massacres, systematic terrorism; 2. killing of hostages; 3. torture of civilians; 8. confinement of civilians in inhuman conditions; 9. forced labor of civilians in connection with

military operations of the enemy; 10. usurpation of sovereignty during the occupation of occupied territories; 11. forced conscription of soldiers among the inhabitants of the occupied territories; 12. attempts to denationalize the inhabitants of occupied territories; 13. looting; 14. confiscation of property; 17. imposition of collective fines; 18. wilful devastation and destruction of property; 25. violation of other rules concerning the Red Cross; 29. ill-treatment of wounded and prisoners of war; and 30. use of prisoners of war for unauthorized work.

This list, which already includes the grievances against the defendants enumerated in the Indictment and from which we have just quoted a few facts, is significant because the War Crimes which it encompasses all present a composite character. They are crimes against both international law and national law. Some of these crimes constitute attacks on the fundamental liberties and constitutional rights of peoples and of individuals; they consist in the violation of public guarantees which are recognized by the constitutional Charter of the Nations whose territories were occupied; violation of the principles of liberty, equality, and fraternity which France proclaimed in 1789 and which the civilized states guarantee in perpetuity. These War Crimes are violations of public international law, since they represent a systematic refusal of acknowledgment of all respective rights of both occupying and occupied power; but they also may be analyzed as violations of public national law, since they mean forcibly transforming the constitutional institutions of the occupied territories and the juridical statute of their inhabitants.

More numerous are crimes which constitute attacks on the integrity of the physical person and of property. They are allied with war law regulations and include violations of international law and customs.

But the international conventions, it should be noticed, determine the elements constituting an infraction more than they actually establish that infraction itself. The latter existed before in all national legislatures; it was to some extent a part of the juridical inheritance common to all nations; governments agreed to affirm its international character and to define its contents. International penal law is thus superimposed on national law, which preserves its repressive basis because the war crime remains, after all, a crime of common law. National penal law gives the definition of this. All the acts referred to in Article 6 of the Charter of 8 August 1945, all the facts encompassed by the third Count of the Indictment of 18 October 1945 correspond to the infractions of common law provided for and punished by national penal legislation. The killing of prisoners of war, of hostages, and of inhabitants

of occupied territories falls, in French law, under Articles 295 and following of the Penal Code, which define murder and assassination. The mistreatment to which the Indictment refers would come under the heading of bodily injuries caused intentionally or through negligence which are defined by Articles 309 and following. Deportation is analyzed, independently of the murders which accompany it, as arbitrary sequestration, which is defined by Articles 341 and 344. Pillage of public and private property and imposition of collective fines are penalized by Articles 221 and the following of our Military Code of Justice. Article 434 of the Penal Code punishes voluntary destruction, and the deportation of civilian workers may be compared with the forced conscription provided for by Article 92. The oath of allegiance is equivalent to the exaction of a false oath in Article 366, and the Germanization of occupied territories may be applied to a number of crimes, the most obvious of which is forced incorporation in the Wehrmacht in violation of Article 92. The same equivalents can be found in all modern legislative systems and particularly in German law.

The crimes against persons and property of which the defendants are guilty are provided for by all national laws. They present an international character because they were committed in several different countries; from this there arises a problem of jurisdiction, which the Charter of 8 August 1945 has solved, as we have previously explained; but this leaves intact the rule of definition.

A crime of common law, the war crime is, nevertheless, not an ordinary infraction. It has a character peculiarly intrinsic—it is a crime committed on the occasion or under the pretext of war. It must be punished because, even in time of war, attacks on the integrity of the physical person and or property are crimes if they are not justified by the laws and customs of war. The soldier who on the battlefield kills an enemy combatant commits a crime, but this crime is justified by the law of war. International law therefore intervenes in the definition of a war crime, not in order to give it essential qualification but in order to fix its outer limits. In other words, every infraction committed on the occasion or under the pretext of hostilities is criminal unless justified by the laws and customs of war. International law here applies the national theory of legitimate defense which is common to all codes of criminal law. The combatant is engaged in legitimate defense on the battlefield; his homicidal action is therefore covered by a justifying fact. But if this justifying fact is taken away the infraction, whether ordinary crime or war crime, remains in its entirety. To establish the justifying fact, the criminal action must be necessary and proportional to the threat to which it responds. The defendants, against whom justice is demanded of you, can plead no such justification.

Nor can they escape their responsibility by arguing that they were not the physical authors of the crimes. The war crime involves two responsibilities, distinct and complementary: that of the physical author and that of the instigator. There is nothing heterodox in this conception. It is the faithful representation of the criminal theory of complicity through instructions. The responsibility of the accomplice, whether independent or complementary to that of the principal author, is incontestable. The defendants bear the entire responsibility for the crimes which were committed upon their instructions or under their control.

Finally, these crimes cannot be justified by the pretext that an order from above was given by Hitler to the defendants. The theory of the justifying fact of an order from above has, in national law, definite fixed limits; it does not cover the execution of orders whose illegality is manifest. German law, moreover, assigns only a limited rule to the concept of justification by orders from above. Article 47 of the German Military Code of Justice of 1940, although maintaining in principle that a criminal order from a superior removes the responsibility of the agent, punishes the latter as an accomplice, when he exceeded the orders received or when he acted with knowledge of the criminal character of the act which had been ordered. Goebbels once made this juridical concept the theme of his propaganda. On 28 May 1944 he wrote in an article in the *Völkischer Beobachter,* which was submitted to you by the American Prosecution, an article intended to justify the murder of Allied pilots by German mobs:

> "The pilots cannot validly claim that as soldiers they obeyed orders. No law of war provides that a soldier will remain unpunished for a hateful crime by referring to the orders of his superiors, if their orders are in striking opposition to all human ethics, to all international customs in the conduct of war."

Orders from a superior do not exonerate the agent of a manifest crime from responsibility. Any other solution would, moreover, be unacceptable, for it would testify to the impotence of all repressive policy.

All the more reason why orders from above cannot be the justifying fact for the crimes of the defendants. Sir Hartley Shawcross told you with eloquence that the accused cannot claim that the Crimes against Peace were the doing of Hitler alone and that they limited themselves to transmitting the general directives. War Crimes may be compared to the will for aggression; they are the common work of the defendants; the defendants bear a joint responsibility for the criminal policy which resulted from the National Socialist doctrine.

The responsibility for German war criminality, because it constituted a systematic policy, planned and prepared before the opening of hostilities, and perpetrated without interruption from 1940 to 1945, rests with all the defendants, political or military leaders, high officials of National Socialist Germany, and leaders of the Nazi Party.

Nevertheless, some among them appear more directly responsible for the acts taken as a whole, particularly those facts connected with the French charges, that is to say, crimes committed in the Western occupied territories or against the nationals of those countries. We shall cite:

The Defendant Göring as Director of the Four Year Plan and President of the Cabinet of Ministers for Reich Defense; the Defendant Ribbentrop in his capacity as Minister of Foreign Affairs in charge of the administration of occupied countries; the Defendant Frick in his capacity as Director of the Central Office for occupied territories; the Defendant Funk in his capacity as Minister of Reich Economy; the Defendant Keitel, inasmuch as he had command over the occupation armies; the Defendant Jodl, associated in all the responsibilities of the preceding defendant; the Defendant Seyss-Inquart in his capacity as Reich Commissioner for the occupied Dutch territory from 13 May 1940 to the end of the hostilities.

We will examine more particularly among these defendants, or among others, those responsible for each category of acts, it being understood that this enumeration is in no wise restrictive.

The Defendant Sauckel bears the chief responsibility for compulsory labor in its various forms. As Plenipotentiary for Allocation of Labor, he carried out the intensive recruiting of workers by every possible means. He is in particular the signer of the decree of 22 August 1942, which constitutes the charter for compulsory labor in all occupied countries. He worked in liaison with the Defendant Speer, Chief of the Todt Organization and Plenipotentiary General for Armament in the office of the Four Year Plan; as well as with the Defendant Funk, Minister of Reich Economy; and with the Defendant Göring, Chief of the Four Year Plan.

The Defendant Göring participated directly in economic looting in the same capacity. He appears often to have sought and derived a personal profit from it.

The Defendant Ribbentrop in his capacity as Minister of Foreign Affairs was no stranger to these acts.

The Defendant Rosenberg, organizer and Chief of the Einsatzstab Rosenberg, is particularly guilty of the looting of works of art in the occupied countries.

The chief responsibility for the murders of hostages lies with the Defendant Keitel, the drafter notably of the general order of 16 September 1941, with his assistant, the Defendant Jodl, and with the Defendant Göring who agreed to the order in question.

The Defendant Kaltenbrunner, Himmler's direct associate and chief of all the foreign police and security offices, is directly responsible for the monstrous devices to which the Gestapo had recourse in all occupied countries, devices which are only the continuation of the methods originated in the Gestapo by its founder, in Prussia, the Defendant Göring. The Defendant Kaltenbrunner is likewise directly responsible for the crimes committed in deportation camps. Moreover, he visited these camps of deportation, as will be proved by the French Delegation in the case of the Mauthausen Camp. The Defendant Göring knew of and gave his approval to the medical experiments made on prisoners. The Defendant Sauckel forced prisoners by every possible means to work under conditions, which were often inhuman, for the German war production.

The Defendant Keitel and his assistant, the Defendant Jodl, are responsible for treatment contrary to the laws of war inflicted upon war prisoners, for murders and killings to which they were subjected, as well as for handing over great numbers of them to the Gestapo. The Defendant Göring shares their responsibility for the execution of Allied aviators and soldiers belonging to the commando groups. The Defendant Sauckel directed the work of war prisoners for the German war production in violation of international law.

The Defendant Keitel and the Defendant Kaltenbrunner both bear the chief responsibility for the terrorist actions carried out jointly by the German Army and the police forces in the various occupied countries and notably in France against the Resistance, as well as for the devastations and massacres carried out against the civilian population of several French departments. The Defendant Jodl shares in this responsibility, most particularly through his initial order, "Fight against Partisan Bands," dated 6 May 1944, which provides for "collective measures against the inhabitants of entire villages." These blows against mankind are the result of racial theories of which the Defendant Hess, the Defendant Rosenberg, and the Defendant Streicher are among the instigators or propagandists. The Defendant Hess participated notably in the elaboration of this subject, which is found in *Mein Kampf*.

The Defendant Rosenberg, one of the principal theorists of racial doctrine, exercised the function of special delegate for the spiritual and ideological training of the Nazi Party. The Defendant

Streicher showed himself to be one of the most violent anti-Semitic agitators. In the execution of the policy of Germanization and Nazification responsibility is shared between the Ministry of Foreign Affairs, that is to say, the Defendant Ribbentrop; the General Staff, that is, the Defendants Keitel and Jodl; the Central Office for all the occupied territories, that is, the Defendant Frick.

The major National Socialist culprits had their orders carried out in the divers Nazi organizations, which we ask you to declare criminal, in order that each of their members may be then apprehended and punished.

The Reich Cabinet, the Leadership Corps of the Nazi Party, the General Staff, the High Command of the German Armed Forces represent only a small number of persons whose guilt and punishment must ultimately result from the evidence, since they participated personally and directly in the decisions, or ensured their execution through some eminent person in the political or military hierarchy, and without being able to ignore their criminal nature.

The leaders of the Nazi Party are unquestionably in the forefront of those who participated in the criminal enterprise, and around the Defendants Keitel and Jodl the military High Command directed the Army to the execution of hostages, to pillage, to wanton destruction, and to massacres.

But perhaps it will seem to you that the punishment of hundreds of thousands of men who belonged to the SS, to the SD, to the Gestapo, to the SA, will give rise to some objection. I should like to try, should this be the case, to do away with that objection by showing you the dreadful responsibilities of these men. Without the existence of these organizations, without the spirit which animated them, one could not understand how so many atrocities could have been perpetrated. The systematic War Crimes could not have been carried out by Nazi Germany without these organizations, without the men who composed them. It is they who not only executed but willed this body of crimes on behalf of Germany.

It may have seemed impossible to you that the monstrous barbarity of the National Socialist doctrine could have been imposed upon the German people, the heir, as are our people, of the highest values of civilization. The education by the Nazi Party of the young men who formed the SS, the SD, and the Gestapo, explains the hold Nazism exercised over all Germany. They incarnated National Socialism, and permitted it to accomplish, thanks to the guilty passiveness of the whole German population, a part of its purpose. This youth, those who carried out the tenets of the regime, were trained in a veritable doctrine of immoralism, which results from the ideology that inspired the regime. The myth of

the race removed from war in the eyes of these disciples of Nazism its criminal character.

If it is proved that a superior race is to annihilate races and peoples that are considered inferior and decadent, incapable of living a life as it should be lived, before what means of extermination will they recoil? This is the ethics of immorality, the result of the most authentic Nietzscheism, which considers that the destruction of all conventional ethics is the supreme duty of man. The crime against race is punished without pity. The crime on behalf of race is exalted without limit. The regime truly creates a logic of crime which obeys its own laws, which has no connection whatsoever with what we consider ethical. With such a point of view, all horrors could have been justified and authorized. So many acts which appear incomprehensible to us, so greatly do they clash with our customary notions, were explained, were formulated in advance in the name of the racial community.

Add that these atrocities and these cruelties were perpetrated within the rigid framework created by the "esprit de corps," by the soldierly solidarity which bound individuals and insured the legitimacy of the crime an unlimited field of action. The individuals who committed them would not only be covered by the regime itself, but spurred on by the discipline and the "camaraderie" of these corps, imbued with Nazi criminality.

The Nazi youth was invited to go through an extraordinary adventure. Having unlimited power at its disposal, thanks to the Party and its massive grip, it was first of all called upon to implement the grandiose dreams of National Socialist Pan-Germanism.

The Party exercised a rigid selection of its youth, and neglected no incentive. It solicited from its youth the desire to distinguish itself, to accomplish exploits beyond the common order and beyond nature. The young Nazis in the Gestapo and the SS knew that their acts, no matter how cruel or how inhumane they might be, would always be judged legitimate by the regime, in the name of the racial community, of its needs, and of its triumphs. The Nazi Party, thanks to the young men of the SS, of the SD, and of the Gestapo, had thus become capable of accomplishing in the field of criminality what no other person or nation could have committed.

The members of these organizations became voluntarily the authors of these innumerable crimes of all kinds, often executed with disconcerting cynicism and with artful sadism in the concentration camps of Germany as well as in the various occupied countries, and especially in those of Western Europe.

The crimes are monstrous. The crimes and the responsibility for them have definitely been established. There is no possible

doubt. Nevertheless throughout these tranquil sessions of this Trial, extraordinary in the history of the world, in view of the exceptional nature of the justice which Your High Tribunal is called upon to render before the United Nations and the German people and before all mankind a few objections may arise in our minds.

It is our duty to discuss this exhaustively, even if it is only sub-conscious in us, for soon a pseudo-patriotic propaganda may take hold of Germany, and even may echo in some of our countries.

"Who can say: I have a clean conscience, I am without fault? To use different weights and measures is abhorred by God." This text from the Holy Scriptures (Proverbs XX, 9-10) has already been mentioned here and there; it will serve tomorrow as a theme of propaganda, but above all, it is profoundly written in our souls. Rising in the name of our martyred people as accusers of Nazi Germany, we have never for a moment repressed it as a distasteful reminder.

Yes, no nation is without reproach in its history, just as no individual is faultless in his life. Yes, every war in itself brings forth iniquitous evils and entails almost necessarily individual and collective crimes, because it easily unleashes in man the evil passions which always slumber there.

But we can examine our conscience fearlessly in the face of the Nazi culprits; we find no common measure between them and ourselves.

If this criminality had been accidental; if Germany had been forced into war, if crimes had been committed only in the excitement of combat, we might question ourselves in the light of the Scriptures. But the war was prepared and deliberated upon long in advance, and upon the very last day it would have been easy to avoid it without sacrificing any of the legitimate interests of the German people. And the atrocities were perpetrated during the war, not under the influence of a mad passion nor of a warlike anger nor of an avenging resentment, but as a result of cold calculation, of perfectly conscious methods, of a pre-existing doctrine.

The truly diabolical enterprise of Hitler and of his companions was to assemble in a body of dogmas formed around the concept of race, all the instincts of barbarism, repressed by centuries of civilization, but always present in men's innermost nature, all the negations of the traditional values of humanity, on which nations, as well as individuals, question their conscience in the troubled hours of their development and of their life; to construct and to propagate a doctrine which organizes, regulates, and aspires to command crime.

The diabolical enterprise of Hitler and of his companions was also to appeal to the forces of evil in order to establish his domination over the German people and subsequently the domination of Germany over Europe and perhaps over the world. It planned to incorporate organized criminality into a system of government, into a system of international relations, and into a system of warfare, by unleashing within a whole nation the most savage passions.

Nationalism and serving their people and their country will perhaps be their explanation. Far from constituting an excuse, if any excuse were possible in view of the enormity of their crime, these explanations would make it still more serious. They have profaned the sacred idea of the fatherland by linking it to a willed return to barbarism. In its name they obtained—half by force, half by persuasion—the adherence of a whole country, formerly among the greatest in the order of spiritual values, and have lowered it to the lowest level. The moral confusion, the economic difficulties, the obsession with the defeat of 1918 and with the loss of might and the Pan-Germanic tradition are the basis of the empire of Hitler and of his companions over a people thrown off its balance; to abandon oneself to force, to renounce moral concern, to satisfy a love of collectivity, to revel in lack of restraint are the natural temptations strongly implanted in the German, which the Nazi leaders exploited with cynicism. The intoxication of success and the madness of greatness completed the picture and put practically all Germans, some without doubt unconsciously, in the service of the National Socialist doctrine by associating them with the diabolical enterprise of their Führer and his companions.

Opposing this enterprise men of various countries and different classes rose, all of them animated by the common bond of their human lot. France and Great Britain entered the war only to remain faithful to their given word. The peoples of the occupied countries, tortured in body and soul, never renounced their liberty nor their cultural values, and it was a magnificent epic of clandestine opposition and of Resistance which through a splendid heroism testifies to the spontaneous refusal of the populations to accept the Nazi myths. Millions and millions of men of the Soviet Union fell to defend not only the soil and independence of their country, but also their humanitarian universalism. The millions of British and American soldiers who landed on our unhappy continent carried in their hearts the ideal of freeing from Nazi oppression both the occupied countries and the peoples who willingly or by force had become the satellites of the Axis and the German people.

They were all of them together, whether in uniform or not, fighters for the great hope which throughout the centuries has been

nourished by the suffering of the peoples, the great hope for a better future for mankind.

Sometimes this great hope expresses itself with difficulty or loses its way or deceives itself or knows the dread return to barbarism, but it persists always and finally constitutes the powerful lever which brings about the progress of humanity despite everything. These aspirations always reborn, these concerns constantly awakened, this anguish unceasingly present, this perpetual combat against evil form in a definitive manner the sublime grandeur of man. National Socialism only yesterday imperiled all of this.

After that gigantic struggle where two ideologies, two conceptions of life were at grips, in the name of the people whom we represent here and in the name of the great human hope for which they have so greatly suffered, so greatly fought, we can without fear and with a clean conscience rise as accusers of the leaders of Nazi Germany.

As Mr. Justice Jackson said so eloquently at the opening of this Trial, "Civilization could not survive if these crimes were to be committed again," and he added, "The true plaintiff in this Court is civilization."

Civilization requires from you after this unleashing of barbarism a verdict which will also be a sort of supreme warning at the hour when humanity appears still at times to enter the path of the organization of peace only with apprehension and hesitation.

If we wish that on the morrow of the cataclysm of war the sufferings of martyred countries, the sacrifices of victorious nations, and also the expiation of guilty people will engender a better humanity, justice must strike those guilty of the enterprise of barbarism from which we have just escaped. The reign of justice is the most exact expression of the great human hope. Your decision can mark a decisive stage in its difficult pursuit.

Undoubtedly even today, this justice and this punishment have become possible only because, as a first condition, free peoples emerged victorious from the conflict. This is actually the link between the force of the victors and the guilt of the vanquished leaders who appear before Your High Tribunal.

But this link signifies nothing else but the revelation of the wisdom of nations that justice, in order to impose itself effectively and constantly upon individuals and upon nations, must have force at its disposal. The common will to put force in the service of justice inspires our nations and commands our whole civilization.

This resolution is brilliantly confirmed today in a judicial case where the facts are examined scrupulously in all their aspects,

the penal nature of the offense rigorously established, the competency of the Tribunal incontestable, the rights of the defense intact, total publicity insured.

Your judgment pronounced under these conditions can serve as a foundation for the moral uplift of the German people, first stage in its integration into the community of free countries. Without your judgment, history might incur the risk of repeating itself, crime would become epic, and the National Socialist enterprise a last Wagnerian tragedy; and new Pan-Germanists would soon say to the Germans:

"Hitler and his companions were wrong because they finally failed, but we must begin again some day, on other foundations, the extraordinary adventure of Germanism."

After your judgment, if only we know how to enlighten this people and watch over their first steps on the road to liberty, National Socialism will be inscribed permanently in their history as the crime of crimes which could lead it only to material and moral perdition, as the doctrine which they should forever avoid with horror and scorn in order to remain faithful or rather become once more faithful to the great norms of common civilization.

The eminent international jurist and noble European, Politis, in his posthumous book entitled *International Ethics* reminds us that, like all ethical rules, those which should govern international relations will never be definitely established unless all peoples succeed in convincing themselves that there is definitely a greater profit to be gained by observing them than by transgressing them. That is why your judgment can contribute to the enlightenment of the German people and of all peoples.

Your judgment must be inscribed as a decisive act in the history of international law in order to prepare the establishment of a true international society excluding recourse to war and enlisting force permanently in the service of the justice of nations; it will be one of the foundations of this peaceful order to which nations aspire on the morrow of this frightful torment. The need for justice of the martyred peoples will be satisfied, and their sufferings will not have been useless to the progress of mankind.

THE PRESIDENT: M. De Menthon, would you prefer to continue the case on behalf of France this afternoon, or would you prefer to adjourn?

M. DE MENTHON: We are at the disposal of the Court.

THE PRESIDENT: Well then, if that is so, then I think we better go on until 5 o'clock.

M. DE MENTHON: It might be preferable to adjourn, because M. Faure's brief which is going to be presented will last at least

an hour. Perhaps it is better to adjourn until tomorrow morning. However, we will remain at the disposal of the Court.

THE PRESIDENT: When you said that the proof which will now be presented would take an hour, do you mean by that that it is an introductory statement or is it a part of the main case which you are presenting?

M. DE MENTHON: Your Honor, it is part of the general case.

THE PRESIDENT: Would it not be possible then to go on until 5 o'clock?

M. DE MENTHON: Yes, quite so.

M. EDGAR FAURE (Deputy Chief Prosecutor for the French Republic): Mr. President and Your Honor, I propose to submit to the Tribunal an introduction dealing with the first and the second part of the French case.

The first part relates to forced labor; the second part to economic looting. These two over-all questions are complementary to each other and form a whole. Manpower on the one hand and material property on the other constitute the two aspects of the riches of a country and the living conditions in that country. Measures taken with regard to the one necessarily react on the other, and it is understandable that in the occupied countries German policy with regard to manpower and economic property was inspired from the very beginning by common directing principles.

For this reason the French Prosecution has deemed it logical to submit successively to the Tribunal those two briefs corresponding to the letters "H" and "E" of the third Count of the Indictment. My present purpose is to define these initial directives covering the German procedure in regard to manpower and to material in the occupied territories.

When the Germans occupied the territories of Denmark, Norway, Holland, Belgium, Luxembourg, and part of continental France, they thereby assumed a material power of constraint with regard to the inhabitants and a material power of acquisition with regard to its property. They thus had in fact the possibility of utilizing these dual resources on behalf of the war effort.

On the other hand, legally they were confronted with precise rules of international law relating to the occupation of territories by the military forces of a belligerent state. These rules very strictly limit the rights of the occupant, who may requisition property and services solely for the needs of the army of occupation. I here allude to the regulation annexed to the Convention concerning the Laws and Customs of War signed at The Hague on

18 October 1907, Section III, and in particular to the Articles 46, 47, 49, 52, and 53. If it please the Tribunal, I shall merely cite the paragraph of Article 52 which defines in a perfectly exact manner the lawful conditions of requisition of persons and property:

> "Requisitions in kind and of services may be demanded of communities or of inhabitants only for the needs of the army of occupation. They will be proportionate to the resources of the country and of such a nature that they do not imply for the population the obligation of taking part in war operations against their native country."

These various articles must, moreover, be considered in the general spirit defined in the preamble of the Convention, from which I take the liberty of reading the last paragraph to the Tribunal:

> "Until such time as a more complete code of the laws of war can be enacted, the High Contracting Parties deem it opportune to state that in cases not included in the regulations adopted by them, populations and belligerents remain under the safeguard and direction of the principles of the law of nations derived from the established usages among civilized nations, the laws of humanity, and the requirements of public conscience."

From this point of view it is very evident that the total exploitation of the resources of occupied countries for the benefit of the enemy's war economy is absolutely contrary to the law of nations and to the requirements of public conscience.

Germany signed the Hague Convention and it must be pointed out that she made no reservations at that time except with regard to Article 44, which relates to the supply of information to the belligerents. She made no reservation with regard to the articles which we have cited nor with regard to the preamble. These articles and the preamble, moreover, reiterate the corresponding text of the previous Hague Convention of 28 July 1899.

German official ratifications of the Conventions were given on 4 September 1900 and 27 November 1909. I have purposely recalled these well-known facts in order to emphasize that the Germans could not fail to recognize the constant principles of international law to which they subscribed on two occasions, long before their defeat in 1918 and consequently outside the alleged pressure to which they referred in regard to the Treaty of Versailles.

While on this subject of juridical theory, may I point out that in the arrangement signed at Versailles on 28 June 1919 in connection with the military occupation of the territories of the

Rhine, reference is made in Article 6 to the Hague Convention in the following terms:

> "The right of requisition in kind and in services as formulated by the Hague Convention of 1907 will be exercised by the allied and associate armies of occupation."

Thus, the governing principles of the rights of requisition by the occupiers is confirmed by a third international agreement subscribed to by Germany, who in regard to the occupation of her own territory is here the beneficiary of this limitation.

What, then, will the conduct of the Germans be like, in view of this factual situation, which involves power and temptation, and in view of this legal situation which involves a limitation?

The Tribunal is already aware, by virtue of the general presentation of the American Prosecution, that the conduct of the Germans was to profit by the fact and to ignore the law.

The Germans systematically violated international rules and the law of nations, as far as we are concerned, both by forced labor and by spoliation. Detailed illustrations of these acts in the Western countries will be laid before you in the briefs which will follow my own. For my part I propose to concentrate for a moment on the actual concepts which the Germans had from the outset. In this connection I shall submit to the Tribunal three complementary propositions.

First Proposition: From the very beginning of the occupation, the Germans decided, in the interests of their war effort, to seize in any way possible all the resources, both material and human, of the occupied countries. Their plan was not to take any account of legal limitations. It is not under the spur of occasional necessity that they subsequently perpetrated their illicit acts, but in pursuance of a deliberate intention.

Second Proposition: However, the Germans took pains to mask their real intentions; they did not make known that they rejected international juridical rules. On the contrary, they gave assurance that they would respect them. The reasons for this camouflage are easy to understand. The Germans were anxious from the beginning to spare public opinion in the occupied territory. Brutal proceedings would have aroused immediate resistance which would have hampered their actions. They also wished to deceive world opinion, and more particularly American public opinion, since the United States of America had at that time not yet entered the war.

The third proposition which I lay before the Tribunal results from the first two. As the Germans contemplated achieving their aims and masking their intentions, they were of necessity bound

to organize a system of irregular means, while maintaining an appearance of legality. The complexity and the technical character of the proceedings they used enabled them easily to conceal the real state of affairs from the uninitiated or the merely uninformed. These disguised means proved, in fact, just as efficient and perhaps even more so than would have been brutal seizure. They moreover enabled the Germans to have recourse to such brutal action the day they deemed that this would yield them more advantages than inconvenience.

We are of the opinion that this analysis of the German intentions is of interest to the Tribunal for, on the one hand, it demonstrates that the illicit acts were premeditated and that their authors were aware of their reprehensible character; and on the other hand, it enables one to understand the scope and extent of these acts, despite the precautions taken to mask them.

The evidence which the Prosecution will submit to the Tribunal refers chiefly to the second and third propositions, for as regards the first, that is to say, the criminal intention and premeditation, it is demonstrated by the discrepancy between the facade and reality.

I say in the first place that the Germans at the time of the occupation made a pretense of observing the rules of international law. Here is, by way of example, a proclamation to the French population, signed by the Commander-in-Chief of the German Army. This is a public document which is reproduced in the *Official Journal,* containing the decrees issued by the military governor for French occupied territories, Number 1 dated 4 July 1940. I submit to the Tribunal this document, which will bear Number RF-1 of the French documentation; and from it I cite merely the following sentence:

> "The troops have received the order to treat the population with regard and to respect private property provided the population remains calm."

The Germans proceeded in identical manner in all the occupied countries. I also submit to the Tribunal the text of the same proclamation, dated 10 May 1940, which was published in the *Official Journal* of the Commander-in-Chief in Belgium and in the north of France, Number 1, Page 1, under the title "Proclamation to the Population of Belgium." The German text, as well as the Flemish text, bear the more complete title, "Proclamation to the Population of Holland and Belgium." In view of the identical nature of these texts, this copy may be considered as Document Number RF-1 (bis) of the French documentation.

I now submit another proclamation entitled, "To the Inhabitants of Occupied Countries!" dated 10 May 1940, and signed "The Commander-in-Chief of the Army Group." This is likewise published in the *Official Journal* of German ordinances. This will be Document Number RF-2 of the French documentation. I will cite the first two paragraphs:

"The Commander-in-Chief of the German Army has given me authority to announce the following:

"I. The German Army guarantees the inhabitants full personal security and the safeguard of their property. Those who behave peacefully and quietly have nothing to fear."

I also quote passages from Paragraphs V, VI, and VII:

"V. The administrative authorities of the state, communities, the police, and schools shall continue their activities. They therefore remain at the service of their own population....

"VI. All enterprises, businesses, and banks will continue their work in the interest of the population....

"VII. Producers of goods of prime necessity, as well as merchants, shall continue their activities and place their goods at the disposal of the public."

The passages which I have just quoted are not the literal reproduction of international conventions, but they reflect their spirit. Repetition of the terms, "at the service of the population," "in the interest of the population," "at the disposal of the public" must necessarily be construed as an especially firm assurance that the resources of the country and its manpower will be preserved for that country and not diverted in favor of the German war effort.

We pass now Document under Number RF-2 (bis) to the next of the same proclamations signed by the Commander-in-Chief of the Army Group and published in the *Official Journal* of the Commander-in-Chief in Belgium, numbered as above, Page 3.

Finally, on 22 June 1940, an armistice convention was signed between the representatives of the German Government and the representatives of the *de facto* authority which was at that time assuming the Government of France. This convention is likewise a public document. It will be submitted to the Tribunal at a later stage as the first document of the economic case. At this stage I merely wish to cite a sentence of Paragraph 3, which reads as follows: "In the occupied districts of France the German Reich exercises all the rights of an occupying power."

This constitutes then a very definite reference to international law. Moreover, the German plenipotentiaries gave in this respect complementary oral assurances. On this matter I submit to the Tribunal, in the form of French Exhibit Number RF-3 (Document

RF-3), an extract from the deposition made by Ambassador Leon Noel in the course of proceedings before the French High Court of Justice. This extract is reproduced from a book entitled *Transcript in extenso of the Sessions of the Trial of Marshal Petain,* printed in Paris in 1945 at the printing office of the official journals and constitutes a document admissible as evidence in accordance with the Charter of the Tribunal, Article 21. This is the statement of M. Leon Noel, which I desire to cite to the Tribunal. M. Leon Noel was a member of the French Armistice Delegation.

THE PRESIDENT: Are you going to present this document to us?

M. FAURE: This document is presented to the Tribunal. We have given to the Tribunal the transcript of the proceedings, and in the book of documents the Tribunal will find the excerpt I am now quoting.

THE PRESIDENT: We are not in possession of it at present. I do not know where it is.

M. FAURE: I think that possibly this document was handed to the Secretariat of the Tribunal rather late, but it will be here immediately. May it please the Tribunal, I merely intend to read a short extract from this document today.

THE PRESIDENT: We will have it tomorrow, I hope?

M. FAURE: Certainly, Mr. President.

[Quoting.] "I have also obtained a certain number of replies from German generals which I believe could have been subsequently used—from General Jodl, who in the month of May last signed at Reims the unconditional surrender of Germany and from General (subsequently Marshal) Keitel, who a few weeks later was to sign in Berlin the ratification of this surrender. In this way I led them to declare in the most categorical manner that in no event would they interfere with administration, that the rights which they claimed for themselves under the convention were purely and simply those which in similar circumstances international law and international usage concede to occupation armies, that is to say, those indispensable for the maintenance of security, transportation, and the food supply needs of these armies."

These assertions and promises on the part of the Germans were therefore formal. Now, even at that time, they were not sincere. Indeed, not only did the Germans subsequently violate them, but from the very beginning they organized a system whereby they

were enabled to accomplish these violations in the most efficacious manner and at the same time in a manner which enabled them to some extent to mask them.

As far as economy and labor are concerned, this German system comes from a very simple idea. It consisted in supervising production at its beginning and its end. On the one hand, the Germans embarked immediately upon the general requisitioning of all raw materials and all goods in the occupied countries. Thenceforth, it would depend upon them to supply, or not to supply, raw material to the national industry. They were thus in a position to develop one branch of production rather than another, to favor certain undertakings, and, inversely, to oblige other undertakings to close down. As events and opportunities demanded, they organized this appropriation of raw materials, principally with a view to facilitating their distribution in their own interest but the principle was continuously maintained. They thus held, as it were, the key of entrance to production. On the other hand, they also held the exit key, that is to say, of finance. By securing the financial means in the form of the money of an occupied country, the Germans were able to purchase products and to acquire, under the pretense of legality, the output of the economic activity of the country. In point of fact, the Germans obtained for themselves from the outset such considerable financial means that they were easily able to absorb the entire productive capacity of each country.

If the Tribunal finds it suitable, I will interrupt at this point.

[The Tribunal adjourned until 18 January 1946 at 1000 hours.]

THIRTY-SEVENTH DAY

Friday, 18 January 1946

Morning Session

M. FAURE: Mr. President, Your Honors. At yesterday's session I explained to the Tribunal the principles of the provisions made by the Germans to ensure the seizure of raw materials and the control of finance in the occupied countries.

These provisions will be demonstrated by numerous documents which will be presented to the Tribunal in the course of the presentation of the case on economic spoliation and forced labor. I shall not quote these documents at this moment since, as I pointed out yesterday, the purpose of my introduction is limited to the initial concepts of the Germans in these matters. I shall cite only one document, which reveals the true intentions of the Germans in the very first period. This document bears our Document Number RF-3 (bis), and I offer it in evidence to the Tribunal.

It relates particularly to Norway. It consists of a photostatic copy, certified, of a transcript of a conference held in Oslo, 21 November 1940, under the presidency of the Reich Commissioner. I would point out to the Tribunal that we submit this document as being particularly significant, because Norway is a country which was occupied at a very early date by the Germans. The date of 21 November 1940, which you see, refers to the very earliest period of the German occupation, and moreover, in the text of the conference, allusion is made to the situation of the 7 months preceding.

You will find there the exact psychology of the occupation as it existed in this period of April 1940 to November 1940, that is to say, at the time, or even before, when the Germans, while invading other countries, made the reassuring proclamations which I read to the Tribunal yesterday.

There were 40 personages present at the conference, of whom State Secretary Dr. Landfried represented the Reich Ministry of Economics. This is how the Reich Commissioner expresses himself:

> "Today's conference is the continuation of a conference which was held in Berlin. On this occasion I should like, first of all, to stress and establish definitely that the collaboration between the Wehrmacht and the Reich Commissioner is

exemplary. I must protest against the idea that the Wehrmacht carried out its financial task here in a muddled and irresponsible manner. We must also take into account the particular circumstances which then prevailed in Norway and which still partially prevail.

"Certain tasks were fixed by the Führer which were to be carried out within a given time.

"At the conference in Berlin the following points were settled, which we can take as a basis of today's conference. There is no doubt that the country of Norway was utilized for the execution of the tasks of the Wehrmacht during the last 7 months in such a way that a further drain on the country without some compensation is no longer possible in view of the future tasks of the Wehrmacht.

"I considered it from the beginning my obvious duty in my capacity as Reich Commissioner to devote my activities to mobilizing all the economic and material forces of the country for the purposes of the Wehrmacht and not to call on the resources of the Reich as long as I am in a position to organize such resources in the country."

I will stop quoting the words of the Reich Commissioner at this point, and now I shall cite the terms of the reply of Dr. Landfried, which you will find a little lower down in the document:

"I am very glad to be able to state that we have succeeded here in Norway . . . in mobilizing the economic forces of Norway for German needs to an extent which it has not been possible to attain in all the other occupied countries. I must thank you especially in the name of the Minister of Economics for having succeeded in inducing the Norwegians to achieve the greatest possible results."

I think the Tribunal will have observed the series of expressions which are used in this document and which are quite characteristic. The Reich Commissioner says that from the very beginning, his duty was to mobilize all the economic and material forces of the country for the purposes of the Wehrmacht, and Dr. Landfried answers that they succeeded in mobilizing the economic forces to an extent which it has not been possible to attain in all the other occupied territories.

Thus we see that Dr. Landfried does not say that the Germans had, in Norway, a particular concept of occupation and that in the other countries they used a different procedure; he says that it was not possible to do as well in the other countries. The only limitation he recognizes is a limit of fact and opportunity, which will soon be overcome, but in no wise a limitation of law. The idea of a legal

limitation never enters his mind, any more than it comes to the mind of any of the 40 personages present.

It is not here a question of an opinion or initiative of a regional administrative authority, but rather of the official doctrine of the Reich Cabinet and the High Command, since 40 high officials were present at this conference, and especially the representative of the Minister for Economy.

I should like to stress at this point that this German doctrine and these German methods for the mobilization of the resources of the occupied countries necessarily extend to the labor of the inhabitants.

I said yesterday that the Germans ensured for themselves from the very beginning the two keys of production. By that very fact they had within their power the working capital and the manpower. It depended on their decision whether labor worked or did not work, whether there should or should not be unemployment. This explains in a general way why the Germans took such brutal measures as the displacement and the mobilization of workers only after a certain time.

In the first period, that is to say, as long as there existed in the occupied countries stocks and raw materials, it was more in the interests of the Germans to utilize labor locally, at least to a great extent. This labor permitted them to produce for their benefit, with the wealth of these countries, finished products which they seized. Thus, besides the moral advantage of safeguarding appearances, they avoided the initial transportation of raw materials. The consideration of transport difficulties was always very important in the German war economy.

But when after a time, which was more or less long, the occupied countries were impoverished in their raw materials and really ruined, then the Germans no longer had any interest in permitting labor to work on the spot. They would, indeed, have had to furnish the raw materials themselves, and consequently that would involve double transportation—that of raw material in one direction and that of the finished products in the other direction. At that moment it became more advantageous for them to export workmen. This consideration coincided, moreover, with the needs resulting from the economic situation of Germany at that time and with political considerations.

On this question of the use of labor, I shall read to the Tribunal a few sentences of a document which I offer under Document Number RF-4. It is therefore the document following that from which I have just read. The note which you will find in the document book reproduces the sentences from an article which appeared in the newspaper *Pariser Zeitung* on 17 July 1942.

I offer at the same time to the Tribunal a certified photostatic copy of the page of the newspaper, which is from the collection of the Bibliothèque Nationale. This article is signed by Dr. Michel, who was the Chief of the Economic Administration in France. Its title is "Two Years of Controlled Economy in France." It is then an article written for the purpose of German propaganda since it appeared in a German newspaper which published one page in French in Paris. Naturally I wish to point out to the Tribunal that we in no way accept all the ideas which are presented in this article, but we should like to point out several sentences of Dr. Michel's as revealing the same sort of procedure about which I was speaking just now, which consisted of utilizing labor, first on the spot, as long as there was raw material, and then deporting that labor to Germany:

> "In order to utilize the productive forces of French industry, the Reich began by transferring to France its orders for industrial articles for the war effort.
>
> "One single figure is sufficient to show the success of this transfer of German orders: The value of the transactions to date is expressed in a figure surpassing hundreds of thousands of millions of francs. New blood is circulating in the veins of French economy, which is working to the utmost of its capacity. . . ."

Some sentences in the original are omitted here, as they are of no interest, and I would like to read the following sentence:

> "As the stocks of raw materials tended to diminish on account of the length of the war, the recruitment of available French labor began."

Dr. Michel uses here elegant ways of expressing himself, which cover the reality, that is to say, the beginning of the transfer of workmen at the moment when raw materials, which the Germans had appropriated from the beginning, had begun to be exhausted.

The conclusion which I would now like to give to my statement is the following: That the Germans have always considered labor, human labor, as a factor for their use. This attitude existed even before the official institution of compulsory labor, of which we will speak to you presently.

For Germans the work of others has always been compulsory and for their profit, and it was meant to remain so even after the end of the war.

It is this last point that I should like to emphasize, for it shows the extent and the gravity of the German conception and of the German projects. I shall quote in relation to this a document which will bear the Number RF-5 in our document book. Here

is the document, which I submit to the Tribunal. It is a work published in French in Berlin in 1943, by Dr. Friedrich Didier, entitled *Workers for Europe.* It was issued by the central publishing house of the National Socialist Party. It begins with a preface by the Defendant Sauckel, whose facsimile signature is printed.

I shall quote to the Tribunal a paragraph from this work, which is the last page in my document book. It is Document Number RF-5 and this sentence is found on Page 23. I quote:

> "A great percentage of foreign workers will remain, even after victory, in our territory, in order to complete then—having been trained in construction work—what the outbreak of war had prevented, and to carry out those planned projects which up to now had remained unrealized."

Thus, in a work of propaganda, consequently written with great prudence and with intent to seduce, we nevertheless find this main admission by the Germans, that they intended to keep, even after the war, the workers of other countries in order to insure the greatness of Germany without any limitation of aim or time. Hence it is a matter of a policy of perpetual exploitation.

If it please the Tribunal, my introduction having come to an end, M. Herzog will present the brief relating to forced labor in France.

M. JACQUES B. HERZOG (Assistant Prosecutor for the French Republic): Mr. President and Your Honors.

The National Socialist doctrine, by the pre-eminence which it gives to the idea of the State, by the contempt in which it holds individuals and personal rights, contains a conception of work which agrees with the principles of its general philosophy.

For it, work is not one of the forms of the manifestation of individual personalities; it is a duty imposed by the community on its members.

"The relationship of labor, according to National Socialist ideas," a German writer has said, "is not a simple judicial relationship between the worker and his employer; it is a living phenomenon in which the worker becomes a cog in the National Socialist machine for collective production." The conception of compulsory labor is thus, for National Socialism, necessarily complementary to the conception of work itself.

Compulsory labor service was first of all imposed on the German people. German labor service was instituted by a law of 26 June 1935 which bears Hitler's signature and that of the Defendant Frick, Minister of the Interior. This law was published in the

Reichsgesetzblatt, Part I, Page 769. I submit it to the Tribunal as Exhibit Number RF-6 (Document Number 1389-PS).

From 1939 the mobilization of workers was added to the compulsory labor service. Decrees were promulgated to that effect by the Defendant Göring in his capacity as Delegate for the Four Year Plan. I do not stress this point; it arises from the conspiracy entered into by the accused to commit their Crimes against Peace, and which my American colleagues have already brought to the attention of the Tribunal. I merely point out that the mobilization of workers was applicable to foreigners resident in German territory, because I find in this fact the proof that the principle of compulsory recruitment of foreign workers existed prior to the war. Far from being the spontaneous result of the needs of German war industry, the compulsory recruitment of foreign workers is the putting into practice of a concerted policy. I lay before the Tribunal a document which proves this. It is Document C-2 of the French classification, which I offer as Exhibit Number RF-7. This is a memorandum of the High Command of the German Armed Forces of 1 October 1938. This memorandum, drawn up in anticipation of the invasion of Czechoslovakia, contains a classification of violations possible under international law. In connection with each violation appears the explanation which the High Command of the Armed Forces thinks it possible to give. The document appears in the form of a list in four columns. In the first is a statement of the violations of international law; the second gives a concrete example; the third contains the point of view of international law on the one hand and, on the other hand, the conclusions which can be drawn from it; the fourth column is reserved for the explanation of the Propaganda Ministry.

I read the passage which deals with the forced labor of civilians and prisoners of war, which is found on Page 6 of the German original, Page 7 of the French translation:

> "Use of prisoners of war and civilians for war work, (construction of roads, digging trenches, making munitions, employment in transport, *et cetera).*"

Second column:

> "Captured Czech soldiers or Czech civilians are ordered to construct roads or to load munitions."

The third column:

> "Article 31 of an agreement signed 27 July 1939 concerning the treatment of prisoners of war forbids their use in tasks directly related to war measures. Compulsion to do such work is in every case contrary to international law. The use of prisoners of war as well as civilians is allowed for road construction but forbidden for the manufacture of munitions."

Last column:

"The use of these measures may be based on war needs or on the declaration that the enemy has acted in the same way first."

The compulsory recruitment of foreign workers is thus in accordance with National Socialist doctrine, one of the elements of the policy of German domination. Hitler himself recognized this on several occasions. I quote in this connection his speech of 9 November 1941 which was printed in the *Völkischer Beobachter* of 10 November 1941, Number 314, Page 4, which I submit to the Tribunal under Document Number RF-8. I read the extract of this discourse, Columns 1 and 2, and the first paragraph below, in the German original:

"The territory which now works for us contains more than 250 million men, but the territory in Europe which works indirectly for this battle includes now more than 350 million.

"As far as German territory is concerned, the territory occupied by us and that which we have taken under our administration, there is no doubt that we shall succeed in harnessing every man for this work."

The recruitment of foreign workers thus proceeds in a systematic manner. It constitutes the putting into practice of the political principles as applied to the territories occupied by Germany. These principles, the concrete development of which in other departments of German criminal activity will be pointed out to you by my colleagues, are essentially of two kinds: employment of all active forces of the occupied or dominated territories; extermination of all their non-productive forces.

These are the two reasons which the defendants gave in justification for the establishment of the recruitment of foreign workers. There are many documents to this effect; I confine myself to the most explicit.

The justification for the recruitment of foreign workers, because of the necessity of including the peoples of the enslaved states in the German war effort, is primarily a result of the explanatory statement of the decree of 21 March 1942, appointing the Defendant Sauckel as Plenipotentiary for Allocation of Labor. The decree was published in the *Reichsgesetzblatt*, 1942, Part 1, Page 179. I submit it and will read its complete text to the Tribunal, as Document Number RF-9.

"The decree of the Führer concerning the creation of a Plenipotentiary for Allocation of Labor, dated 21 March 1942.

"The assurance of the required manpower for the whole war economy, and in particular for the armament industry, necessitates a uniform direction, meeting the needs of the war economy, of all available labor, including hired foreigners and prisoners of war, as well as the mobilization of all unused labor still in the Greater German Reich, including the Protectorate as well as the Government General and the occupied territories.

"This mission will be accomplished by Reichsstatthalter and Gauleiter Fritz Sauckel in the capacity of Plenipotentiary General for Allocation of Labor. In this capacity he is directly responsible to the Delegate for the Four Year Plan."

I would like to point out here that the Defendant Sauckel developed the same theme at the Congress of Gauleiter and Reichsleiter held 5 and 6 February 1943 at Posen. He expressed himself in plain terms: He justified compulsory recruitment on the basis of National Socialist philosophy and on the basis of the necessity of drawing all the European peoples into the struggle carried on by Germany. His speech constitutes Document 1739-PS. I submit it under Exhibit Number RF-10, and I request the Court to take judicial notice of it and to accept the following passages in evidence against the Defendant Sauckel. First, Page 5 of the German text, fourth paragraph—this is found on the first page of the French translation:

"The remarkable violence of the war forces me to mobilize, in the name of the Führer, many millions of foreigners for labor for the entire German war economy and to urge them to effect the maximum production. The purpose of this utilization is to assure in the field of labor the war material necessary in the struggle for the preservation of the life and liberty, in the first place, of our own people, and also for the preservation of our Western culture for those peoples who, in contrast to the parasitical Jews and plutocrats, possess the honest will and strength to shape their life by their own work and effort.

"This is the vast difference between the work which was exacted through the Treaty of Versailles and the Dawes and Young Plans at one time—which took the form of slavery and tribute to the might and supremacy of Jewry—and the use of labor which I, as a National Socialist, have the honor to prepare and to carry out as a contribution by Germany in the fight for her liberty and for that of her allies."

The compulsory recruitment of foreign workers did not have as its only object the maintenance of the level of German industrial

production. There was also the conscious desire to weaken the human potential of the occupied countries.

The idea of extermination by work was familiar to the theorists of National Socialism and to the leaders of Germany. It constituted one of the bases of the policy of domination of the invaded territories. I lay before the Court the proof that the National Socialist conspirators envisaged the destruction by work of whole ethnical groups. A discussion which took place on 14 September 1942 between Goebbels and Thierack is significant. It constitutes Document 682-PS, which I submit to the Tribunal under Exhibit Number RF-11, from which I take the following passage:

> "Concerning the extermination of asocial elements, Doctor Goebbels is of the opinion that the following groups must be exterminated: All Jews and gypsies; Poles who have to serve 3 or 4 years penal servitude; Czechoslovakians and Germans who have been condemned to death or hard labor for life or placed in protective custody. The idea of extermination by work is best."

The idea of extermination by work was not applied to ethnical groups alone, the disappearance of which was desired by the defendants; it also led to the employment of foreign labor in the German war industry up to the extreme limit of each man's strength. I will revert to this aspect of the policy of forced labor when I lay before the Tribunal the treatment of foreign workers in Germany: The cruelty to which they were submitted sprang from this main conception of National Socialism, that the human forces of the occupied countries must be employed with no other limitation than that of their extermination, which is the final goal.

The defendants have not only admitted the principle of compulsory recruitment of foreign workers; they have followed a consistent policy of putting their principle into practice, applying it in the same concrete manner in the various occupied territories. To do this they resorted to identical methods of recruitment; they set up everywhere the same recruitment organizations to which they gave the same orders.

In the first place, it was a question of inducing foreign workers to work in their own countries for the army of occupation and the services connected with it. The German military and civil authorities organized yards and workshops in order to carry out on the spot work useful to their war policy. The yards and workshops of the Todt Organization, which were under the direction of the Defendant Speer after the death of their founder, and those of the Wehrmacht, Luftwaffe, Kriegsmarine, and the NSKK organization, employed numerous foreign workers in all areas of Western Europe.

But the essential undertaking of the German labor offices was the deportation of foreign workers to the munition factories of the Reich. The most varied means were used to this end. They were built up into a recruiting policy which can be analyzed as follows:

In the beginning, this policy took on the cloak of legality. The use of labor took the form of requisition as under the terms of Article 52 of the appendix to the fourth Hague Convention; it was also effected by means of the voluntary recruitment of workers, to whom the German recruiting offices offered labor contracts.

I shall provide the Tribunal with proof that the requisitions of labor effected by the National Socialist authorities were a deliberate misinterpretation of the letter and spirit of the international convention by virtue of which they were carried out. I shall show that the voluntary character of the recruitment of certain foreign workers was entirely fictitious; in reality their work contracts were made under the pressure which the occupation authorities brought to bear on their will.

The defendants lost no time in flinging aside their mask of legality. They compelled prisoners of war to do work forbidden by international conventions. I shall show how the work of prisoners of war was incorporated in the general plan for the Allocation of Labor from the occupied areas.

After all, it is through force that the defendants brought their recruitment plans to fruition. They did not hesitate to resort to violent methods. Thus they established compulsory labor service in the areas which they occupied. Sometimes they directly promulgated orders bearing the signature of military commanders or Reich commissioners; this is the case with Belgium and Holland. Sometimes they forced the actual authorities to take legislative measures themselves; this is particularly the case with France and Norway. Sometimes they simply took direct action, that is, they transferred foreign workers to factories in Germany without issuing regulations providing for such action; this happened in Denmark. Finally in certain occupied areas where they had carried out Germanization, the defendants incorporated the inhabitants of those territories in the labor service of the Reich. It happened thus in the French provinces of Haut-Rhin, Bas-Rhin, Moselle, and in Luxembourg.

The policy of compulsory labor was asserted and systematized from the day when the Defendant Sauckel was appointed Plenipotentiary General for Allocation of Labor.

Member of the National Socialist Party since its formation, member of the Diet of Thuringia, and member of the Reichstag, Obergruppenführer of the criminal organizations SS and SA, the Defendant Sauckel was Gauleiter and Reichsstatthalter of Thuringia. On 21 March 1942 he was appointed Plenipotentiary General

for Allocation of Labor by a decree of the Führer. This decree is countersigned by Lammers in his capacity as Reichsminister and Chief of the Chancellery and by the Defendant Keitel; the responsibility of these latter is confirmed by this countersigning. The Defendant Keitel has associated himself with the policy of compulsory labor through the appointment of Sauckel, the principles and methods of whom he approved.

I have already read this decree to the Tribunal. I would remind you that it placed Sauckel, in his capacity as Plenipotentiary General for Allocation of Labour, under the immediate orders of the Delegate for the Four Year Plan, the Defendant Göring. The latter bears a direct responsibility in pursuing the plan of recruitment of compulsory labor. I shall produce numerous proofs of this. I ask the Tribunal to authorize me to produce as first proof the decree signed by the Defendant Göring the day after the appointment of the Defendant Sauckel. This decree, dated 27 March 1942, was published in the *Reichsgesetzblatt,* 1942, Part I, Page 180. I submit it to the Tribunal under Exhibit Number RF-12 (Document Number 1902-PS). Göring by this decree did away with all the administrative offices of the Four Year Plan which had been charged with the recruitment of labor; he transmitted their powers to Sauckel's department, thus confirming his appointment.

The powers of Sauckel between 1942 and 1944 were considerably strengthened by decrees of Hitler and Göring. These decrees gave full significance to the Defendant Sauckel's title of Plenipotentiary. They gave him administrative autonomy and even legislative competency such as he could not have aspired to had he confined himself to executive tasks. The importance of the political part which he played during the last 2 years of the war increases to this extent the weight of the responsibility devolving upon him.

I draw the attention of the Tribunal very especially to the decrees of the Führer of 30 September 1942 and of 4 March 1943 and to the decree of the Defendant Göring of 25 May 1942. I will not read these decrees, which have been commented on by my American colleague, Mr. Dodd. I submit them in support of my argument.

I will first refer to the decree of the Defendant Göring of 25 May 1942. It was published in the *Reichsgesetzblatt,* 1942, Part I, Page 347. He delegated to Sauckel part of the powers relating to labor held by the Minister of Labor. I submit it to the Tribunal under Exhibit Number RF-13 (Document Number 1905-PS).

Hitler's decree of 30 September 1942 gave Sauckel considerable power over the civil and military authorities of the territories occupied by the German Armed Forces. It made it possible for the defendant to introduce into the staffs of the occupying authorities

personal representatives to whom he gave his orders direct. The decree is countersigned by Lammers and by the Defendant Keitel and appears in the *Collection of the Decrees, Directives, and Notices of 1942,* second volume, Page 510. I submit it under Exhibit Number RF-14 (Document 1903-PS).

In the carrying out of this decree representatives of Sauckel's department were in fact introduced into the headquarters staffs of the military commands. The interrogation of General Von Falkenhausen, Military Governor of Belgium and Northern France, gives in this connection a proof which I would ask the Tribunal to be good enough to remember. General Von Falkenhausen was interrogated on 27 November 1945 by the head of the Investigation Section of the French Delegation. I submit his evidence to the Tribunal under Document Number RF-15. I read the following extract—Page 3, the first paragraph, of the French text, and Page 2, the fifth paragraph, of the German translation:

"Q: 'Can the witness tell us what was the line of demarcation between his own powers and the powers of the Arbeitseinsatz?'

"A: 'Up to a certain moment there existed in my department a labor service which was engaged in the hiring of voluntary workers. I no longer remember the exact date—perhaps autumn 1942—when this labor service was placed under the order of Sauckel, and the only thing I had to do was to carry out the orders which came through this way. I don't remember, but Reeder, who is also in prison'"—Reeder was a civilian official on the staff of General Von Falkenhausen—" 'is very well informed about the dates and can undoubtedly give them better than I can.'

"Q: 'Before the question of labor was entirely entrusted to Sauckel's organization, did there exist in the General Staff or in its services an officer who was in charge of this question? Afterwards was there a delegate from Sauckel's service in this department?'

"A: 'Until Sauckel came into power there was, in my service, Reeder, who directed the Bureau of Labor in my office. This labor office functioned as an employment office in Germany, that is to say, it concerned itself with demands for labor which would naturally be voluntary.'

"Q: 'What took place when the change happened?'

"A: 'After the change the office continued to exist, but the orders were given directly by Sauckel to the Arbeitseinsatz and passed through my office.'"

[A recess was taken.]

M. HERZOG: I have just reminded the Tribunal of the legislative framework through which the activity of the Defendant Sauckel was exercised. This framework was strengthened by the varied decrees of the defendant. The first document shows that Sauckel deliberately assumed the responsibility of the general policy for the recruitment of foreign workers. It is his decree of the 22d of August 1942, which appeared in the *Reichsarbeitsblatt*, 1942, Part I, Page 382. This decree lays down the principle of forced recruitment and makes the necessary provisions for the whole human potential of the occupied territories to be placed at the service of the German war machine.

Sauckel forced the inhabitants of the invaded countries to participate in the war of Germany against their own fatherland. It is not only a violation of international law, it is a crime against the law of nations. I submit the decree to the Tribunal under Document Number RF-17 and I shall read it:

"Decree Number 10 of the Plenipotentiary General for Allocation of Labor, concerning the employment of labor in the occupied territories, under date of 22 August 1942.

"In order to mobilize the labor force of the occupied territories under the new organization for the Allocation of Labor within the European area, this force must be subjected to a rigid and uniform control. The maximum production, as well as the useful and rational distribution of this force, must be assured in order to satisfy the labor requirements of the Reich and the occupied territories. By virtue of the full powers which are conferred upon me, I order:

"1) By virtue of the decree of the Führer, under date of 21 March 1942, concerning the Plenipotentiary General for Allocation of Labor and by virtue of the ordinance of the Delegate for the Four Year Plan, under date of 27 March 1942, concerning the application of this decree, I likewise am competent to employ, as may be necessary, the labor of occupied territories, as well as to take all the measures necessary to augment its efficiency. Those German offices competent for the tasks of the Arbeitseinsatz and for the policy of wages, or my commissioners, will carry out this Allocation of Labor and take all measures necessary to increase efficiency, according to my instructions.

"2) This decree extends to all the territories occupied during the war by the Wehrmacht, as far as they are under German administration.

"3) The labor available in the occupied territories must be utilized in the first place to satisfy the primary war needs of Germany herself.

"This labor must be utilized in the occupied territories in the following order:

"a) For the needs of the army, the occupation services, and the civilian services; b) for the needs of German armament; c) for the tasks of food supply and agriculture; d) for industrial needs other than those of armament, in which Germany is interested; e) for the industrial needs concerning the population of the territory in question."

A second document demonstrates the willingness of the Defendant Sauckel to take the responsibility for the treatment of foreign workers. It is an agreement concluded on 2 June 1943 with the Chief of the German Labor Front. I shall not read this document to the Tribunal; it has been discussed by Mr. Dodd. I point out that it was published in the *Reichsarbeitsblatt,* 1943, Part I, Page 588. I submit it in support of my statement under Exhibit Number RF-18 (Document Number 1913-PS).

Designated by Hitler and by the Defendants Keitel and Göring in order to pursue, under the control of the latter, the policy of recruitment of compulsory labor, the Defendant Sauckel carried out his task by virtue of the responsibilities which he had assumed. I request that the Tribunal bear this in mind.

I request the Tribunal, likewise, to note that the policy of recruitment of foreign workers involves the responsibility of all German ministers responsible for the economic and social life of the Reich. An inter-ministerial office, or at any rate an inter-administrative office, the Central Office for the Four Year Plan, proceeded to formulate the program for the recruitment of foreign workers.

All departments interested in the labor problem were represented at the meetings of the Central Office. General Milch presided at the meetings, in the name of the Defendant Göring. The Defendant Sauckel and the Defendant Speer took part, in person, and I shall submit to the Tribunal certain statements made by them. The Defendant Funk also took part; he therefore knew of, and approved, the program for the deportation of workers. He even collaborated in its formulation. As proof thereof I produce two documents inculpating Funk.

The first is a letter of 9 February 1944, in which Funk is summoned to a meeting of the Central Office of the Plan. It is Document F-674 which I submit to the Tribunal under Exhibit Number RF-19. I read:

"Sir: In the name of the Central Office of the Plan, I invite you to a meeting concerning the question of the Allocation of Labor, to take place on Wednesday, 16 February 1944,

at 10 o'clock in the committee room of the Secretary of State at the Ministry of Aviation, Leipziger Strasse, in Berlin.

"In the enclosure I transmit to you some statistics on the subject of the development of the Allocation of Labor. These statistics will serve as a basis for discussion at the meeting."

Funk was unable personally to attend the meeting but he arranged to be represented by Undersecretary of State Hayler. He received the minutes of the meeting, and on 7 March 1944 he wrote to General Milch to excuse himself for his frequent absences from the meetings of the Office. I submit this document to the Tribunal. It is Document F-675, which I submit under Exhibit Number RF-20. It is the account of the 53rd meeting of the Central Office of the Plan. The Tribunal may see on Page 2 of the French translation that Minister Funk received an account of this meeting. He is mentioned on the second line of the distribution list—Reich Minister Speer first and on the second line Reich Minister Funk.

I now produce under Exhibit Number RF-21 (Document Number F-676) the letter by which Funk excuses himself to Marshal Milch because of his inability to be present at the meetings:

"Very honored and dear Field Marshal:

"Unfortunately the meetings of the Central Office of the Plan are always set for dates when I am already engaged by other important meetings. So it is to my great regret that I shall be unable to be present Saturday at the meeting of the Central Office of the Plan, inasmuch as I have to speak on that day in Vienna in the course of a great demonstration commemorating the anniversary of the day of the Anschluss.

"State Secretary Dr. Hayler will also be in Vienna on Friday and Saturday, where at the same time there will be an important southeast European conference, in which foreign delegates will participate and at which I must likewise speak.

"Under these circumstances I beg you to allow Ministerial Director and General of Police, SS Brigadeführer Ohlendorf, who is the permanent deputy of State Secretary Hayler, to participate as my representative. . . ."

THE PRESIDENT: Does this document tell us anything more than that the Defendant Funk was unable to be present?

M. HERZOG: This document, Mr. President, was given to me by my American colleagues, who asked me to use it in the matter of compulsory labor, because they have not had the necessary time to include it in their charge against Funk. It is presented to the Tribunal to prove that Funk followed the meetings of

the Central Office of the Plan and that he had permanent representatives there. He was represented at all meetings, and by the minutes he received he was kept in touch with the work of the Central Office of the Plan. That is why we present to the Tribunal this document on Defendant Funk.

I shall continue to quote:

"Under these circumstances, I beg you to allow Ministerial Director and General of Police, SS Brigadeführer Ohlendorf, who is the permanent deputy of State Secretary Hayler, to participate as my representative. Mr. Ohlendorf will have Ministerial Director Dr. Koelfen as a consultant for questions concerning goods for consumption and Counsellor of State Dr. Janke, for questions concerning foreign trade."

The policy of the Central Office pursued by the Defendant Sauckel is shown by the mass deportation of workers. The principle of this deportation is a criminal one, but the manner of its execution was even more criminal. I shall submit proof of this to the Tribunal and explain in succession, the methods of compulsory recruitment, its results, and the conditions of deportation.

I wish here to thank the members of the French Delegation and of the foreign delegations who have come to my aid in the preparation of my work, in particular, my colleague M. Pierre Portal, attorney at the bar of Lyons.

The statement which I have the honor of presenting to the Tribunal will be limited to the account of the recruiting of foreign labor in the occupied territories of Western Europe, since the deportation of workers coming from Eastern Europe will be dealt with by my Soviet colleagues.

During the whole duration of the occupation the local field commanders imposed conscription of labor on the populations of the occupied territories. Fortification works considered necessary for the furtherance of military operations and guard duties made necessary by the need of maintaining the security of the occupation troops were carried out by the inhabitants of the occupied areas. The labor requisitions affected not only isolated individuals but entire groups.

In France, for instance, they affected, in turn, groups of Indo-Chinese workers, workers from North Africa, foreign workers, and *Chantiers de Jeunesse* (youth workyards). I produce in evidence an extract from the report on forced labor and the deportation of workers drawn up by the Institute of Statistics of the French Government. This report bears the Document Number F-515 and I submit it to the Tribunal under Exhibit Number RF-22. This document, because of its importance, has been taken out of the document book. I quote first of all Page 17 of the French

text and 17, likewise, of the German translation, second paragraph before the end:

"Paragraph 6: The forced labor recruitment of constituted groups:

"Finally, a last procedure employed by the Germans on a number of occasions during the whole course of the occupation, for direct forced labor as well as for indirect forced labor: the 'requisition' of constituted groups already trained and disciplined and consequently an excellent contribution.

"(a) Indo-Chinese labor (M.O.I.): This formation of colonial workers had been intended from the beginning of hostilities to satisfy the needs of French industry in unskilled labor. Under the control of officers and noncommissioned officers of the French Army, who became civilian officials after the month of July 1940, Indo-Chinese labor was, from 1945 on, compelled to do partial forced labor, directly as well as indirectly."

I skip the table on Page 18 and I read:

"(b) North African labor: Between 17 August and 6 November 1942 the home country received two contingents of workers from North Africa; one composed of 5,560 Algerians, the other of 1,825 Moroccans. These workers were immediately compelled to do direct forced labor, which brought the number of North African workers enrolled in the Todt Organization to 17,582.

"(c) Foreign labor: The law of 11 July 1938, concerning the organization of the nation in time of war, provided for the cases of foreigners living in France, obliging them to render service. Under French officers and noncommissioned officers who by the law of 9 October 1940 had assumed the status of civil servants, foreign labor was progressively subjected by the Germans to direct forced labor."

I skip the table and I read:

"(d) Youth workyards: On 29 January 1943 the labor staff of the German Armistice Commission in Paris made known that the Commander-in-Chief 'West' was examining whether and in what ways the formations of French labor might be called upon for the accomplishment of tasks important for both countries. There followed partial recruiting and demands for young people from the workyards for direct labor."

Similar requisitions took place in all the other territories of Western Europe. These requisitions were illegal. They were carried out by virtue of Article 52 of the Appendix to the fourth Hague Convention. In reality they systematically violated the letter and the spirit of the text of this international law.

What does Article 52 of the Appendix to the fourth Hague Convention say? It is worded as follows:

> "Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country and be of such a nature that they do not imply for the populations the obligation to take part in war operations against their country. Such requisitions and services shall be demanded only on the authority of the commander of the area occupied."

The terms in which Article 52 authorizes the requisition of services by an army of occupation are expressly formulated. These terms are four in number:

1. The rendering of services can be demanded only for the needs of the army of occupation. All requisitions made for the general economic needs of the occupying power are thus forbidden.

2. Services demanded by way of requisition must not entail an obligation to take part in military operations against the country of those rendering them. The rendering of any service exacted in the interests of the war economy of the occupying power, all guard duties, or exercise of military control are forbidden.

3. Services rendered in a given area must be in proportion to its economic resources, the development of which must not be hampered. It follows that any requisitioning of labor is contrary to international law if it results in the impeding or prevention of the normal utilization of the riches of the occupied country.

4. Finally, labor requisitions must, under the provisions of the second paragraph of Article 52, be carried out in the area of the locality under the administration of the occupation authority who has signed the requisition order. The transfer of conscripted workers from one part of the occupied area to another and, even more, their deportation to the country of the occupied power, are prohibited.

Labor requisitions exacted by German civilian and military authorities in the occupied areas did not honor the spirit of Article 52. They were carried out to satisfy either the needs of German economy or even the needs of the military strategy of the enemy forces. They deliberately refused to acknowledge the need of ensuring facilities for a reasonable utilization of local resources. They finally took the form of migration of workers. The case of those workers who were conscripted from all countries of Western Europe and formed an integral part of the Todt Organization, to help in building the system of fortifications known under the name of the "Atlantic Wall," may be taken as a typical example.

This violation of international agreements is a flagrant one; it called forth repeated protests from General Doyen, Delegate of the French authorities at the German Armistice Commission. I ask the Tribunal to accept as evidence the letter of General Doyen, dated 25 May 1941. This letter constitutes Document F-283 and it is placed before the Tribunal as Exhibit Number RF-23, I read:

"Wiesbaden, 25 May 1941. Général de Corps d'Armée Doyen, President of the French Delegation at the German Armistice Commission, to General of Artillery Vogl, President of the German Armistice Commission.

"On several occasions, and notably in my letters Numbers 14,263/A E and 14,887/A E of 26 February and 8 March, I protested to you against the use made of French labor within the Todt Organization in the execution of military work on the coast of Brittany.

"I have today the duty of calling your attention to other cases in which the occupation authorities have had recourse to recruiting French civilians to carry out services of a strictly military character, cases which are even more grave than those which I have already called to your attention.

"If, indeed, as concerns the workers engaged by the Todt Organization, it may be argued that certain ones among them accepted voluntarily an employment for which they are being remunerated (although in practice most often they were not given the possibility of refusing this employment), this argument can by no means be invoked when the prefects themselves are obliged at the expense of the departments and the communities, to set up guard services at important points, such as bridges, tunnels, works of art, telephone lines, munitions depots, and areas surrounding aviation fields.

"The accompanying note furnishes some examples of the guard services which have thus been imposed upon Frenchmen, services which before this were assumed by the German Army and which normally fall to the latter, since it is a question of participating in watches or of preserving the German Army from risks arising from the state of war existing between Germany and Great Britain."

The occupying authorities, in the face of the resistance which they encountered, were anxious that their orders regarding the requisition of labor should be obeyed. The measures which they took to this end are just as illegal as the measures taken for the requisition itself. The National Socialist authorities in occupied France proceeded by way of legislation. They promulgated ordinances by which sentence of death could be pronounced against persons disobeying requisition orders.

I submit two of these ordinances to the Tribunal as evidence. The first was given in the early months of the occupation, 10 October 1940. It was published in the *Verordnungsblatt* for the occupied territory of France on 17 October 1940, Page 108. I submit it to the Tribunal under Document Number RF-24, and I read it:

"Ordinance concerning protection against acts of sabotage, 10 October 1940.

"By virtue of the powers which have been conferred upon me by the Führer and Supreme Commander of the Armed Forces, I decree the following:

"I. Whoever intentionally does not fulfill or fulfills inadequately the tasks of surveillance which are imposed upon him by the Chief of the Military Administration in France, or by an authority designated by the latter, shall be condemned to death."

I skip Paragraph 2 and read Paragraph 3:

"In less serious cases concerning infractions of Paragraphs 1 and 2 of the present ordinance, and in case of negligence, punishment by solitary confinement with hard labor or imprisonment may be imposed."

The second ordinance of the Military Commander in France to which I refer is dated 31 January 1942. It was published in the *Verordnungsblatt* of France of 3 February 1942, Page 338. I submit it to the Tribunal under Document Number RF-25 and I read:

"Ordinance of 31 January 1942 concerning the requisition of service and goods.

"By virtue of the plenary powers which have been conferred on me by the Führer and Supreme Commander of the Armed Forces, I decree the following:

"1. Whoever fails to comply with these requisitions of service or goods which are imposed upon him by the Military Commander in France, or an authority designated by him, or who performs them in such a manner as to imperil or make fail the purpose of the services or requisitions, shall be punished by penal servitude, imprisonment, or fine. A fine may be imposed in addition to penal servitude or imprisonment.

"2. In serious cases the penalty of death may be inflicted."

These ordinances were protested against by the French authorities. General Doyen protested on several occasions against the first of these without his protest having any effect.

I refer again to his letter of 25 May 1941, which I have just submitted to the Tribunal under Exhibit Number RF-23 (Document

Number F-283), and I read on Page 3 of the French text, Page 4 of the German translation:

"I am instructed to lodge a formal protest with you against such practices and to beg you to intervene so that an immediate end may be put to this.

"On 16 November, in letter Number 7,843/AE, I already protested against the ordinance that was decreed on 10 October 1940, by the Chief of the Military Administration in France, which provided the death penalty for any person failing to carry out or carrying out inadequately the tasks of surveillance imposed by the occupation authorities. I protested then that this demand, as well as the penalty, was contrary to the spirit of the Armistice Convention, the object of which was to relieve the French population from any participation in the hostilities.

"I had limited myself to this protest in principle because at the time no concrete case in which such a task of surveillance might have been imposed had been called to my attention. But it was not possible to accept as justification of the ordinance in question the arguments which you gave me in your letter Number 1361 of 6 March.

"You did indeed point out there that Article 43 of the Hague Convention gave the occupying power the authority to legislate, but the power to which you refer in the said article is subject to two qualifications: There can be legislation only to establish and secure public order and life as far as it is possible. On the other hand, the ordinances decreed must . . ."

THE PRESIDENT: Isn't it enough to show that General Doyen protested? It is not necessary to read all the argument which was put forward on the one side or the other.

M. HERZOG: I shall then stop this quotation, Mr. President.

The German ordinances which I have just read to the Tribunal thus contained formal violations of the general principles of international criminal legislation; they were decreed in contradiction to Article 52 of the Annex to the fourth convention of The Hague and also in contradiction to Article 43, on which they were supposed to be based. They were, therefore, illegal and they were criminal, since they provided death sentences which no international law or domestic law justifies.

The system of the requisition of service furnishes the first example of the criminal character of the methods pursued by the defendants in the execution of their plan of recruitment of foreign labor.

The National Socialist authorities then had recourse to a second procedure to give an appearance of legality to the recruiting of foreign workers. They called upon workers who were so-called volunteers. From 1940 on, the occupation authorities opened recruiting offices in all the large cities of the occupied territories. These offices were placed under the control of a special service instituted for this purpose within the general staff of the commanders-in-chief of occupation zones.

The Tribunal knows that these services from 1940 to 1942 functioned under the control of the generals. From 1942 on, and more precisely, from the day when the Defendant Sauckel became the Plenipotentiary for Allocation of Labor, they received their orders directly from the latter. General Von Falkenhausen, Commander-in-Chief in Belgium and in the north of France, declared in the testimony which I have just read to the Tribunal that from the summer of 1942 he had become the simple intermediary charged with transmitting the instructions given by Sauckel to the Arbeitseinsatz.

Thus, the policy of the German employment offices set up in the occupied areas was carried out from 1942 under the sole responsibility of the Defendant Sauckel and his direct chief, the Delegate for the Four Year Plan, the Defendant Göring. I ask the Tribunal to take note of this.

The task of the employment offices was to organize the recruiting of workers for the factories and workshops set up in Europe by the Todt Organization and by the Wehrmacht, Kriegsmarine, Luftwaffe, and other German organizations. It was also their task to procure for the German munition factories the amount of foreign labor needed. Workers recruited in this way signed a labor contract; thus they had, theoretically, the status of free workers and were apparently volunteers.

The occupation authorities always made a point of the voluntary nature of the recruiting carried out by the employment offices, but the line followed by their propaganda systematically ignored what they were actually doing. In fact, the voluntary character of this recruiting was entirely fictitious; the workers of the occupied areas who agreed to sign German labor contracts were subject to physical and moral pressure. This pressure took several forms. It was sometimes collective and sometimes individual. In all its forms it was heavy enough to deprive the workers, who were its victims, of their freedom of choice.

The nullity of contracts entered into under the sway of violence is a fundamental principle of law common to all civilized nations. It is found just as expressly stated in German law as in the laws of the powers represented in the Court, or the states occupied by

Germany. The German employment offices forced on the foreign workers labor contracts which had no legal significance because they were obtained with violence. I assert this and I will try to provide the Court with proof of my assertion.

First of all, I will show proof of premeditation by the Germans. The pressure under which the foreign workers suffered was not the result of sporadic action on the part of subordinate authorities. It came from the deliberate intent which the National Socialist leaders of Germany formulated into precise instructions.

I submit to the Tribunal Document 1183-PS, which is Exhibit Number RF-26. This is a circular dated 29 January 1942, dealing with the recruitment of foreign workers. This directive comes from a section of the Arbeitseinsatz of the Delegate for the Four Year Plan. It bears the signature of the section chief, Dr. Mansfeld, but it places the executive responsibility directly on the Defendant Göring, Delegate for the Four Year Plan. I read this circular:

"Berlin (SW 11), 29 January 1942, Saarlandstrasse 96.

"Subject: Increased mobilization of labor for the German Reich from the occupied territories and preparations for mobilization by force.

"The labor shortage, aggravated on the one hand by drafts for the Wehrmacht and on the other hand by the increased amount of work for armaments in the Reich, renders it necessary for labor for service in the Reich to be recruited from the occupied territories to a much greater extent than heretofore, in order to relieve the shortage.

"Therefore, any and all methods must be adopted which make it possible to transport, without exception and at once, for employment in the Reich, manpower in the occupied territories which is unemployed or which can be released . . . for use in Germany after most careful screening."

I read further on Page 2 of the German text:

"In the first place, this mobilization shall be carried out on a voluntary basis as hitherto. For this reason recruitment for employment in the German Reich must be intensified considerably. If, however, satisfactory results are to be obtained, the German authorities who are operating in the occupied territories must be able to exert any pressure necessary to support the voluntary recruitment of labor for employment in Germany.

"Accordingly, as far as may be necessary, the regulations in force in the occupied territories with regard to changing the place of employment or . . . those refusing work, must be tightened. Supplementary regulations concerning distribution of labor must, above all, insure that older persons who are

exempt will be used to replace younger persons so that the latter may be made available for the Reich. A far-reaching reduction in the amount of relief granted by public welfare must also be effected in order to induce laborers to accept employment in the Reich. Unemployment relief must be set so low that the amount, in comparison with the average wages in the Reich and the possibilities there for sending remittances home, may serve as an inducement to the workers to accept employment in Germany. When refusal to accept work in the Reich is not justified, relief must be reduced to an amount barely sufficient for subsistence or even cancelled. In this case partial withdrawal of ration cards and an assignment to particularly heavy compulsory work may be considered."

I here end the quotation and I call to the Tribunal's attention that this circular is addressed to all the services responsible for labor in the occupied areas. Its distribution in Western Europe was: The Reich Commissioner for the occupied Norwegian territories, the Reich Commissioner for the occupied Dutch territories, the Chief of the Military Administration of Belgium and Northern France, the Chief of the Military Administration of France, the Chief of the Civil Administration of Luxembourg, the Chief of the Civil Administration at Metz, and the Chief of the Civil Administration at Strasbourg.

It is thus proved that a general common plan existed with a view to compelling the workers of the occupied territories to work for Germany.

I have now to show how this plan was put into practice in the different occupation zones. The machinery of pressure which the National Socialist authorities exerted on the foreign workers can be analyzed in the following manner: German labor offices organized intense propaganda in favor of the recruitment of foreign workers. This propaganda was intended to deceive the workers of the occupied areas with regard to the material advantages offered them by the German employment offices. It was carried out by the press, the radio, and by every possible means of publicity. This propaganda was also carried on as a side-line to official administrative duties by secret organizations which had been given the task of enticing foreign workers and subjecting them to a veritable impressment.

These measures proved to be insufficient. The occupation authorities then intervened in the social life of the occupied countries. They strove to produce artificial unemployment there and at the same time they devoted their energies to making living conditions worse for the workers and the unemployed.

In spite of unemployment and the poverty with which they were threatened, the foreign workers showed themselves unmoved by German propaganda. This is why the German authorities finally resorted to direct methods of pressure. They exercised pressure on the political authorities of the occupied countries to make them give support to the recruiting campaign. They compelled employers, especially the organizational committees in France, to induce their workers to accept the labor contracts of the German employment offices. Finally, they took action by way of direct pressure on the workers and gradually passed from so-called voluntary recruitment to conscription by force.

The fiction of voluntary enrollment was dispelled by the sight of the individual arrests and collective raids of which the workers of the occupied areas rapidly became the victims. There are innumerable documents providing proof of the facts which I relate. I shall submit the most important of these to the Tribunal.

The documents which show proof of the publicity campaigns made in France by the German administration will be submitted to the Tribunal by M. Edgar Faure in the course of his brief concerning Germanization and Nazification. By way of example I wish to make use of a document which in the French classification bears the Document Number F-516, which I submit under Exhibit Number RF-27.

This is a report of the Prefect of the Department of the North to the Delegate of the Minister of the Interior in the General Delegation of the French Government in the Occupied Territories. This report points out that a German publicity car circulated through the community of Lille in order to induce French workers to go to Germany. I quote the report:

> "Lille, 25 March 1942. Prefect of the Region of the North, Prefect of the Lille Region, to the Prefect, Delegate of the Minister of the Interior with the General Delegation of the French Government in the Occupied Territories.
>
> "Subject: German publicity car.
>
> "I have the honor to inform you that for some days a publicity car covered with posters inviting French workers to enroll for work in Germany has been circulating in the vicinity of Lille, while a loud-speaker plays a whole repertoire of records of French music, among which are featured the 'Marche Lorraine' and the hymn 'Maréchal, Here We Are.' "

THE PRESIDENT: I think we will adjourn until 2 o'clock.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

M. HERZOG: Mr. President, Your Honors. I showed you this morning what the official propaganda was which was conducted by the German offices in France to persuade workers to enroll for work in Germany. The effect of this official propaganda was reinforced by the clandestine recruitment bureaus. Real dens for clandestine recruiting were organized by the occupation authorities apart from the administrative services whose activities they completed. These recruitment bureaus were directed by German agents who often succeeded in securing local accomplices. In France these bureaus extended their ramifications to the non-occupied zone as well as the occupied zone. Several documents prove their existence. The first among them is a report transmitted on 7 March 1942 by the Vice President of the Council of Ministers of the *de facto* Government of Vichy, to the Delegate General for Franco-German Economic Relations. It is Document F-654 of the French archives.

This report is drawn up under the seal of Vice President of the Council, Darlan. It bears the signature of an officer of the latter's General Staff, Commander Fontaine. I submit this report under Exhibit Number RF-28 (Document F-654) and I read it:

"Vichy, 7 March 1942. Your Honor, the Delegate General, I have the honor of transmitting to you in this letter, for your information, a report on the organization of recruitment in France of workers for German industry."

I now go to Page 2.

"26 of February 1942. Secret. Note on the organization of the recruitment in France of workers for German industry. Source: excellent.

"I. Organization of the recruitment of workers in France.

"One of the main organizations for the recruitment of workers in France for Germany is to be Société de Mécanique de la Seine, whose head office is in Puteaux, Seine, at 8 Quai National, and which is also known as A. M. S.

"This society is to operate under the secret control of the Kommandantur, and of three engineers, one of which is to have the rank of chief engineer and the other two are to be M. Meyer and M. Schronner.

"In addition to the work which it has to carry out, this society is particularly entrusted with the re-education of workers recruited in France and sent to Germany at the request of German industrial firms on payment of premiums.

"The A. M. S. is assisted in these operations in the Occupied Zone by three centers of recruiting which operate in Paris and are the Porte de Vincennes Center, the Courbevoie Center (200 Boulevard St. Denis), and the Avenue des Tournelles Center. These centers are also charged with co-ordinating the operations of recruitment in the non-occupied zone. For this zone, the two principal centers are in Marseilles and Toulouse. A third center is to be at Tarbes.

"a) The center at Marseilles is in charge of the recruitment in the Mediterranean zone, under the direction of Mr. Meyer who is mentioned above. The address of this engineer is not known, but one can obtain information about him at 24 Avenue Kléber, Paris, at the Military Commander's.

"In Marseilles the A. M. S. office is situated at 83 Rue de Sylvabelle. In his task Mr. Meyer is assisted by M. Ringo, who lives in Madrague-Ville, 5 bis Boulevard Bernabo, near the slaughter house."

I stop this quotation here to submit to the Tribunal the correspondence exchanged between the months of December 1941 and January 1942, between the Prefect of the Alpes-Maritimes and the authorities of the Vichy Government. This is Document F-518 which I submit to the Tribunal as Exhibit Number RF-29. This correspondence emphasizes the activity of the German agents in clandestine recruiting, and particularly that of Mr. Meyer, to whom the report of Commander Fontaine, which I have just read, applies. I quote first the letter of 10 December 1941, in which the Prefect of the Alpes-Maritimes confirmed the reports which he had previously made on this question. It is the letter which is on the sixth page of the French text and the seventh page of the German text:

"Nice, 10 December 1941. The State Counsellor, Prefect of the Alpes-Maritimes, to His Honor, the State Secretary of the Interior, Secretariat General of the Police, Directorate for Home and Foreign Police.

"Subject: The activity of foreign agents, aimed at enticing away skilled workers.

"Reference: Your telegrams 12,402 and 12,426 of 28 November 1941; my reports 955 and 986 of 24 November 1941 and 6 December 1941.

"In my reports referred to I pointed out to you the activity of recruiting agents who attempted to entice skilled workers on behalf of Germany.

"I have the honor of giving you below some additional information gathered on this subject.

"The German engineer Meyer and the French subject Bentz stopped on 1 December 1941 at the Hotel Splendid in Nice, coming from Marseilles."

Now, I go on to the third paragraph before the end:

"I permit myself to draw your attention particularly to the fact that in Paris they enrolled French workers for Germany."

Here I end the quotation.

These documents attest to the activity which the clandestine recruiting offices developed. But I am not satisfied merely to point out their existence; I wish to show that these offices operated under the initiative of official administrations and of the German office for labor.

The proof is furnished by a statement which the Defendant Sauckel made on 1 March 1944, during the 54th conference of the Central Office for the Four Year Plan. The stenographic report of these conferences has been found. It forms Document R-124, to which my American colleagues have already referred. I submit it again to the Tribunal under Exhibit Number RF-30 and I shall read from an extract of the minutes of the session of 1 March 1944. This is in Exhibit Number RF-30, in the French text, Page 2, second paragraph; in the German text, Pages 1770 and 1771. I quote the page numbers which are at the bottom and on the right of the German original. I read the declaration made by the Defendant Sauckel:

"The most abominable point against which I have to fight is the claim that there is no organization in these districts properly to recruit Frenchmen, Belgians, and Italians and to dispatch them to work. So I have even proceeded to employ and train a whole staff of French and Italian agents of both sexes who for good pay, just as was done in olden times for 'shanghaiing,' go hunting for men and dupe them, using liquor as well as persuasion . . ."

The propaganda of the official services and that of the clandestine recruiting offices proved to be inefficacious. The National Socialist authorities then had to resort to methods of economic pressure. They tried to give to the workers who were to go to Germany the hope of material advantages. I cite in respect to this an ordinance of the Military Commander in Belgium and the North of France, which I submit to the Tribunal. It is an ordinance of 20 July 1942 which appeared in the *Verordnungsblatt* of Belgium. It exempts from tax Belgian workers who work in German factories. I submit it to the Tribunal under Document Number RF-31.

On the other hand, the occupation authorities sought to lower the living standard of workers who remained in the occupied

territories. I said that they had made poverty a factor in their recruiting policy. I am going to prove it by showing how they went about creating artificial unemployment in the occupied zones and aggravating the material situation of the unemployed.

I remark as a reminder that the German authorities also practiced for this purpose a policy of freezing salaries. This measure aided the recruiting campaign for labor for Germany and had also an economic bearing, and I would like to refer the Tribunal to the explanations which will be given on this point by M. Gerthoffer.

Unemployment was produced by two complementary measures: The first is the regulating of the legal working hours; the second, the concentration and, if need be, the closing of industrial enterprises.

From 1940 the local field commandants were concerned with increasing the duration of work in their administrative zones. In France steps taken by the local authorities brought about reactions. The problem became general and was solved on a national scale. Long negotiations were imposed on the representatives of the pseudo-government of Vichy.

Finally an ordinance of 22 April 1942, from the Military Command in France, reserved for the occupation authorities the right of fixing the duration of work in industrial enterprises. This ordinance appeared in their *Verordnungsblatt Frankreich,* 1942. I submit it to the Tribunal under Document Number RF-32 and I quote the first paragraph:

> "Paragraph I: For establishments and enterprises of all kinds a minimum of working hours may be imposed. This minimum of working hours will be decreed for an entire economic region, for specified economic branches, or for individual enterprises."

In Belgium working hours were fixed by a decree and by an implementing order of 6 October 1942, which appeared in the *Verordnungsblatt* of Belgium. I submit this ordinance to the Tribunal under Document Number RF-33.

The regulating of working hours did not release a sufficient number of workers for the German factories; that is why the National Socialist authorities used a second method. Under the pretext of rationalizing production they brought about a concentration of industrial and commercial enterprises, certain of which were closed at their instigation. I cite in this relation the provisions which were made or imposed by the Germans in France, in Belgium, and in Holland.

In France I would like to refer to two texts. The first is the ordinance of the Vichy Government of 17 December 1941, published

in the *Journal Officiel de L'État Français,* which I submit to the Tribunal under Document Number RF-34. The second text to which I wish to draw the attention of the Tribunal is the ordinance of 25 February 1942, issued by the Military Commandant in France. This ordinance appeared in the *Verordnungsblatt des Militärbefehlshabers in Frankreich.* I shall read it to the Tribunal because it seems particularly important, as the principle for the compulsory closing of certain French enterprises is laid down by a decree by the occupying power. I shall read the first and second paragraphs of Document Number RF-35:

"Paragraph I: If the economic situation, especially as regards the use of raw materials and industrial appliances, requires it, establishments and economic enterprises may be partly or completely closed.

"Paragraph II: The closing of these enterprises will be announced by field headquarters by means of a written notification addressed to the establishment or to the industrial enterprise."

In Belgium I refer to the ordinances of the Military Commandant, 30 March and 3 October 1942, which appeared in the *Verordnungsblatt* in Belgium. I submit to the Tribunal the ordinance of 30 March under Document Number RF-36.

In Holland the regulating provisions of the occupying authorities were more stringent than elsewhere. I present an ordinance of the Reich Commissioner for the territory of occupied Holland, 15 March 1943. I submit it to the Tribunal under Document Number RF-37.

This ordinance presents a double interest. First, it offers precise information which emphasizes the method with which the German services executed their recruiting plan. It constitutes, on the other hand, the first document I shall submit to the Tribunal accusing the Defendant Seyss-Inquart. The policy of Sauckel was carried out in Holland with the collaboration of Reich Commissioner Seyss-Inquart. The ordinances regarding compulsory labor in Holland were all issued on the responsibility of Seyss-Inquart, whether they bear his actual signature or not. I ask the Tribunal to note this.

The increase of the legal working hours and the closing of industrial enterprises deprived thousands of workers of their jobs. The defendants did not hesitate to use material constraint to incite the unemployed to work for Germany. They threatened the unemployed that they would do away with their unemployment compensation. This threat was made on several occasions by the local field commandants in occupied France. I find proof in the protest made by the French authorities to the German Armistice

Commission. The French document is F-282, which I submit to the Tribunal under Exhibit Number RF-38. I read the first page, third paragraph of the letter:

> "Moreover, the occupation authorities stipulate that the workers who refuse the work offered to them will forfeit their right to unemployment compensation and may be prosecuted by the war tribunal for sabotage of Franco-German collaboration."

Far from disavowing the initiative of their local authorities, the Central Office for Labor gave them instructions to continue this policy. The proof is furnished by the circular of Dr. Mansfeld, dated 29 January 1942, which I have just submitted to the Tribunal under Exhibit Number RF-26 (Document Number 1183-PS) in which instructions were given that the stopping of unemployment compensation should be utilized as a means of pressure on workers from foreign countries. The circular of Dr. Mansfeld shows that the blackmail of the National Socialist leaders was practiced not only in the granting of unemployment compensation, but also in the issuing of ration cards.

Moreover, the defendants tried to force the inhabitants of the occupied territories to leave for Germany by increasing their food difficulties. The proof of this intention is given in the report of the session of 1 March 1944 of the Conference of the Four Year Plan. This document I referred to a short time ago as Exhibit Number RF-30 (Document R-124). This is a passage which has not yet been read, which the Tribunal will please permit me to read. It is on Page 5 of the French translation, Pages 1814 and 1815 of the German text. The page numbers are at the bottom and on the right. I read on the top of Page 5 of the French text:

> "Milch: 'Wouldn't the following method be better than... to protect the "S" factories, German administration should take over the feeding of the Italians and say to them, "No one shall receive food unless he works in a protected factory (S-Betrieb) or leaves for Germany?"'
>
> "Sauckel: 'It is true that the French workman in France is better fed than the German workman in Germany. The Italian workman, even if he does not work at all, is better fed in the part of Italy which we occupy than if he worked in Germany.'"

I have shown the Tribunal the economic and social measures which the National Socialist authorities took to force workers in the occupied territories to accept labor contracts offered by the German authorities. This indirect coercion was reinforced by direct pressure which was simultaneously put on the local governments, the employers, and on the workers themselves.

The National Socialist leaders knew that their recruiting policy could be facilitated by the local authorities. That is why they tried to make the pseudo-governments of the occupied territories guarantee or indorse the fiction of voluntary enrollment. I submit to the Tribunal an example of the pressure which the German services placed on the Vichy Government to that purpose. They first arranged that the State Secretariat of Labor should issue a circular to all prefects on 29 March 1941. The German authorities were not satisfied with this circular. They were conscious of the illegality of their recruiting methods and they wished to justify them by an agreement with the *de facto* government of France.

They required that this agreement be made known by public statement. Negotiations were carried out for this purpose in 1941 and 1942. The violence of the German pressure is substantiated by the letters addressed by Dr. Michel, chief of the administrative staff, to the Delegate General for Franco-German Economic Relations.

I refer especially to his letters of 3 March 1942 and 15 May 1942, which constitute Exhibits Numbers RF-39 and 40 (Documents Numbers F-526 and F-525). I read first to the Tribunal the letter of 15 May, which is under Exhibit Number RF-39 (Document Number F-526):

"Paris, 15 May 1942.

"Subject: The Recruiting of French Labor for Germany.

"As the result of the conversations of 24 January 1942, and after repeated appeals, the first draft of the declaration of the French Government concerning recruiting was presented 27 February. On the German side it was accepted with slight modifications and in written form on 3 March, on the condition that at the time of its transmission to the organizational committees, attention should be directed to the fact that the French Government expressly approved of the acceptance of work in Germany.

"On 19 March attention was drawn to the fact that a draft for a memorandum to the organizational committees should be submitted, whereupon the draft was submitted on 27 March. On 30 March a proposal for modification was delivered to M. Terray, who was to take it up with M. Bichelonne."

I skip the two following paragraphs, and I will read the last paragraph:

"Although no reason appears for the unusual and incomprehensible delay, the draft has not been presented up to now. As more than 2 months have passed since the first

request for the submission of the memorandum, it is requested that the new draft be submitted by 19 May.

"For the Military Commandant; for Chief of the Administrative Staff. Signed, Dr. Michel."

The Tribunal undoubtedly has observed that Dr. Michel demanded not only the circulation of a public declaration, but also insisted that the text of this statement be officially transmitted to the organizational committees. The pressure which occupation authorities put upon French industrial enterprises to stimulate them to encourage the departure of their workers to Germany was brought about, in fact, through the medium of the organizational committees. The German offices for labor collaborated directly with the organizational committees. They ordered conferences in the course of which they dictated their will to the leaders of these committees. They also insisted that the organizational committees should be informed of all the measures which the French authorities had to take.

The committees could then be associated with these measures in the interests of German policy. The correspondence of Dr. Michel offers numerous examples of the constant efforts of the German authorities to act upon the organizational committees.

I have just offered an example of this to the Tribunal in the document which I have read. I now offer another.

In 1941 the Germans demanded that the circulars, especially the directive of 29 March 1941 addressed to the prefects regarding the recruiting of laborers for Germany, should be officially transmitted to the organizational committees. The occupation authorities obtained satisfaction through a circular of 25 April, which I submit to the Tribunal under Exhibit Number RF-41 (Document Number F-521). But the terms of this circular did not receive the approval of the German authorities, and on 28 May 1941 Dr. Michel protested in violent terms to the Delegate General for Franco-German Economic Relations. This protest constitutes our Document F-522. I submit it to the Tribunal under Exhibit Number RF-42, and read it:

"Paris, 28 May 1941.

"Subject: Recruiting of Workers for Germany.

"Reference: Your letter Number 192 of 29 April 1941.

"From your explanations I gather that even before my letter of 23 April was received a circular for the organizational committees had been drafted and sent on 25 April.

"This circular, nevertheless, does not seem to me adequate to support in an efficacious manner the recruiting of workers carried out by Germany. That is why I consider that it is necessary that, in a further directive, attention may be

drawn to the points which were particularly mentioned by me on 23 April and I request you to submit to me as soon as possible the appropriate draft.

"On the German side an impressive contribution toward the creating of a favorable atmosphere has been made by means of the intended release of an additional large number of prisoners of war, which was considered by you at the time of our conversation of 24 March as a primary condition for the success of a reinforced recruiting of workers for Germany. I am therefore probably not wrong in expecting that you will send to the economic organizations a communication so designed that the attitude of expectation, maintained by French economy up until now, will develop also in the field of the release of labor into a constructive co-operation. I therefore expect that you will submit to me your proposals with all possible speed."

And, finally, the German services placed direct pressure upon the workers themselves.

First, moral pressure. The *opération de la relève* (prisoner exchange plan) tried in France in the spring of 1942 is characteristic. The occupation authorities promised to compensate for the sending of French workers to Germany by liberating prisoners of war. The return of a prisoner was to take place upon the departure of a worker. This promise was fallacious, and reality was quite different.

I quote in this connection the report on compulsory labor and the deportation of workers, which I submitted this morning to the Tribunal under Exhibit Number RF-22 (Document Number F-515).

I quote Page 51, both in the French original and in the German translation. In the French original it is the third paragraph of Page 51 and in the German translation the first paragraph:

"If the press, inspired by the occupying power, pretends in its commentaries to applaud the replacement plan of one prisoner for one worker, it is undoubtedly done to order and based on calculation; and also it seems because until 20 June 1942, 2 days before the speech cited before"—it was a speech of the chief of the *de facto* government of France—"it was, indeed, this proportion which the Germans Michel and Ritter had pretended to accept in their reports to the French administrative services.

"The proportion, in fact, of one to five, appears to have been a last-minute surprise of which the press had never breathed a word."

The pressure of which foreign workers were the victims was also a material pressure. I said that the fiction of voluntary enrollment could not be maintained in view of the arrests. I wish to submit a document to the Tribunal which furnishes a characteristic example of the German mentality and of the methods utilized by the National Socialist administrations. This is a document which in the French archives is Number 527, which I submit to the Tribunal under Exhibit Number RF-43. This is a letter from the delegate of the Reich Labor Minister in the French department of Pas de Calais. This official enjoins a young French workman to depart for Germany as a free worker under threat of unfavorable consequences. This is in Exhibit Number RF-43 (Document Number F-527), third page:

"Sir:

"The 26th of March last, in Marquise, I ordered you to go to work in Germany in your profession. You were to leave with the convoy of the 1st of April for Germany. You paid no attention to this summons. I warn you that you must present yourself, with your baggage, next Monday, 28 April, before 19 hours, at 51 Rue de la Pomme d'Or in Calais. I call your attention to the fact that you leave for Germany as a free worker, that you will work there under the same conditions, and earn the same wages as the German workers.

"In case you do not present yourself, I must tell you that unfavorable consequences may very well follow.

"Delegate for the Labor Ministry of the Reich"—signed—"Hanneran."

The proof of the constraint which the German authorities exercised on the workers of the occupied territories to bring about their allegedly voluntary enrollment may be continued. The National Socialist authorities did not merely impose labor contracts tainted with violence on foreign workers, they themselves deliberately failed to honor these contracts.

I find proof of this in the fact that they unilaterally prolonged the duration of the contracts signed by foreign workers. This proof is based on several documents. Some ordinances were issued by the Defendant Göring in his capacity as Delegate for the Four Year Plan; others by the Defendant Sauckel.

I now call the attention of the Tribunal to an order of Sauckel's, dated 29 March 1943, which I submit to the Tribunal under Document Number RF-44. It is an extract from *Verfügungen, Anordnungen, Bekanntmachungen,* Volume 5, Page 203:

"Extension of work contracts, fixed for a period of time, of foreign workers, who during the time of their contract have absented themselves from their work without proper excuse.

"The Plenipotentiary General for Allocation of Labor decrees:

"The regular carrying out of the clauses of a contract for a fixed period of time concluded by a foreign worker necessitates that the worker should devote all his energy to the enterprise for the whole duration of the contract. Nevertheless, it happens that foreign workers as a result of idleness, delays in their return to work from visits to their homes,"—I draw the Tribunal's attention to the following words—"serving terms of prison, internment in a camp of correction, or for other reasons, remain absent from their work . . . without just cause, for a longer or shorter period of time. In such cases foreign workers cannot be authorized to return to their country when the period of time has elapsed for which they agreed to work voluntarily in Germany.

"Such procedure is not in keeping with the spirit of a work contract for a fixed period of time, whose object is not only the presence of the foreign worker, but also the work accomplished by him."

Kept by force in the German factories which they had entered under compulsion, the foreign workers were neither voluntary workers nor free workers. The exposé of the methods of German recruiting will suffice to show the Tribunal the fictitious character of the voluntary enrollment on which it was supposed to be based. The foreign workers who agreed to work in the factories of the National Socialist war industry did not act through free will. Their number, however, remained limited. The workers of the occupied territories had the physical and moral courage to resist German pressure. This is proved in an admission by the Defendant Sauckel, which I take from the minutes of the meeting of 3 March 1944 of the Conference of the Four Year Plan.

This is from an extract which has already been read by my American colleague, Mr. Dodd, so I will not read it again to the Tribunal. I merely wish to recall that the Defendant Sauckel admitted that out of 5 million foreign workers who came to Germany, there were not even 200,000 who came voluntarily. The resistance of the foreign workers surprised the Defendant Sauckel as much as it irritated him. One day he expressed his surprise to a German general who replied, "The difficulty comes from the fact that you address yourself to patriots who do not share your ideal."

Indeed, only force could constrain the patriots of the occupied territories to work in behalf of the enemy. The National Socialist authorities resorted to force.

The Germans had, from the first, the possibility of imposing their policy of force on that kind of labor whose particular status

guaranteed recruitment and apparent submission—the prisoners of war. From 1940 on, the German military authorities organized labor task forces in prison camps. They constantly increased the importance of these task forces, which were put at the disposal of agricultural economy and the war industry.

The importance of the work required from war prisoners is substantiated by the report on forced labor and the deportation of workers, which I have submitted to the Tribunal under Exhibit Number RF-22 (Document Number F-515). We find on Page 68 of the French and German texts the following estimates: There were, at the end of 1942, 1,036,319 French prisoners of war in Germany; 987,687 had been assigned to the work groups and only the surplus, that is 48,632 prisoners, remained unemployed.

The utilization of prisoners of war in German factories does not constitute a distinct phenomenon which can be dissociated from the general plan for the recruiting of foreign workers; it is, on the contrary, an integral part of this plan.

The National Socialists have always considered that the obligation to work applied just as much to war prisoners as to the civilian workers of the occupied territories. They have on many occasions expressed this conviction. I refer especially to three documents.

The first is the decree of the appointment of the Defendant Sauckel, which I submitted to the Tribunal at the beginning of my explanatory remarks.

The second document to which I wish to draw the attention of the Tribunal is the 10th decree of Sauckel, which I submitted some time ago under Document Number RF-17. This decree formulates the principle of the obligation to work and applies to war prisoners, according to the terms of its Article 8.

Finally, Sauckel had, in another document, affirmed that the prisoners of war were to be subject to work in the same manner as civilian workers. This is found in the letter which he wrote to the Defendant Rosenberg on 20 April 1942, some days after his appointment, to explain his project to the latter. This is Document 016-PS, which my American colleague, Mr. Dodd, has already submitted to the Tribunal. I present it as Exhibit Number RF-45. I shall not read from it, but I point out that on Page 20 of the German text the problem of compulsory labor is treated in the general heading entitled, "Prisoners of war and foreign workers."

These documents bring a double proof to the Tribunal. First of all, they reveal the willingness of the National Socialists to force prisoners to work in behalf of the German war economy within the general frame of their recruiting policy. In the second place, these documents establish that the utilization of prisoners

of war was not undertaken only by military authorities; this utilization was ordered and systematized by a civilian organization —that of the Arbeitseinsatz. As well as the responsibility of the Defendant Keitel, it entails also that of the German leaders who conducted the labor policy: the Defendant Sauckel, the Defendant Speer, and the Defendant Göring.

The Tribunal knows that international law regulates the conditions under which prisoners of war may be forced to work. The Hague Convention formulated rules which were closely defined by the Geneva Convention in Articles 27, 31, and 32:

> "Article 27: Belligerents may use as workers healthy war prisoners, according to their rank and their capabilities, with the exception of officers and corresponding ranks. Nevertheless, if officers, or those of similar rank, ask for suitable work, it will be supplied for them as far as possible. Noncommissioned officers, who are war prisoners, can be required to work only as supervisors, if they do not expressly request remunerative occupation....
>
> "Article 31: The work furnished by the prisoners of war...."

THE PRESIDENT: We consider these documents as official and sufficiently authentic.

M. HERZOG: These rules of international law determine positively the legal powers of the nation having prisoners of war in its custody. It is legitimate to force prisoners of war to work during their captivity, but this includes three legal limitations:

1. It is forbidden to compel noncommissioned officers who are prisoners to work, unless they have expressly requested to do so.

2. War prisoners must not be used for dangerous work.

3. Prisoners must not be associated with the enemy war effort.

The National Socialist authorities systematically neglected these imperative provisions. They exercised violent constraint on noncommissioned officers held in captivity, to force them to join labor crews. They included war prisoners as workers in their factories and in the workyards, without considering the nature of the work imposed upon them. The utilization of war prisoners by National Socialist Germany took place under illegal and criminal conditions. This I affirm and I will prove it to the Tribunal.

THE PRESIDENT: We will take a recess for 10 minutes.

[A recess was taken.]

M. HERZOG: Mr. President, Your Honors. From 1941, the Germans exercised direct pressure on noncommissioned officers to force

them to engage in productive work for the Reich war economy. This pressure, after the failure of propaganda methods, took the form of reprisals. Insubordinate noncommissioned officers were subjected to ill-treatment; they were sent to special camps, such as Coberczyn, where they were put under a disciplinary regime. Some incurred penal sentences because of their refusal to work. I submit, as proof, the report of the Ministry of Prisoners, Deportees, and Refugees of the French Government, Document UK-78(2), which is, in my document book, Exhibit Number RF-46. The document is in a white file. I shall read from the bottom of Page 19 in the French original, Page 10 of the German translation:

"Work of noncommissioned officers.

"On this subject the Geneva Convention was explicit: Noncommissioned officers who are war prisoners can be subjected to work only as supervisors, unless they make an express request for a remunerative occupation.

"In conformity with this article a certain number of noncommissioned officers refused to work from the beginning of their captivity. The number of imprisoned noncommissioned officers was, at the end of 1940, about 130,000 and represented later a very important source of labor for the Reich. Therefore, the German authorities strove by every means to induce the greatest possible number of objectors to work. To this effect, during the last months of 1941, the noncommissioned officers who did not volunteer for the work were, in most camps, subjected to an alternating regime. For a few days they had to undergo punishments such as the reduction of food rations, doing without beds, compulsory physical exercises for a number of hours, and particularly the *pelote* (punishment drill). During another period they were promised work according to their liking, and other material advantages, for example, special regulations for insurance, an extra number of letters, and higher wages. These methods led a certain number of noncommissioned officers to accept work. The noncommissioned officers who persisted in their refusal to work were subjected to a very severe disciplinary regime and to arduous physical exercises."

The National Socialist military authorities utilized the prisoners of war for dangerous work. The French, British, Belgian, and Dutch prisoners were used to transport munitions, to load bombs on planes, to repair aviation camps, and to construct fortifications. The proof of the use of prisoners of war for the transport of munitions and for the loading of bombs on planes is furnished by the affidavits of repatriated French prisoners of war. These affidavits

have been assembled in the report of the Ministry of Prisoners, which I have just quoted and which I shall quote again.

I now quote Page 27 of the French document, Page 14 of the German translation. It is the same document from which I have just quoted, Exhibit Number RF-46, Page 27:

"(b) The requisition of prisoners for the construction of fortifications and for the transport of munitions, very often in the close vicinity of the firing line.

"The war prisoners, Kommando 274 of Stalag II B, complain, December 1944, of being employed on Sundays in the construction of antitank trenches.

"On 2 February 1945 the prisoners of Stalag II D, evacuated on account of the advance of the Russian Army, worked, as soon as they arrived at Sassnitz, at fortification works and antitank works, in particular around the city.

"After falling back from Stalag III B, the war prisoners were engaged until the end of April in earthworks, digging trenches, and in transporting aviation bombs.

"Kommando 553 at Lebus was obliged to carry out work in the front lines under the fire of Russian artillery. Numerous comrades, drawn back to Fürstenwalde, were employed in loading bombs on German bombers. In spite of their protests to the International Committee of the Red Cross in Geneva and to the colonel commanding Stalag III B, about billeting in barns, very bad hygiene, and insufficient food, the latter answered that he was obeying superior orders of the OKW, ordering the prisoners to dig trenches."

The National Socialist leaders, for that matter, admitted that they used French and British prisoners of war for military work on airdromes exposed to Allied bombardment.

I offer in proof two notes, the first addressed by the OKH to the War Prisoners Section of the Wehrmacht, and the second by "Wilhelmstrasse" to the German representative of the Reich Foreign Office at the Wiesbaden Armistice Commission.

The memorandum of the OKH, dated 7 October 1940, constitutes Document F-549; I submit it to the Tribunal under Exhibit Number RF-47, and I read it in full:

"The demand of the French Delegation shall be considered unfounded. The lodging of war prisoners in camps situated in the vicinity of aviation fields is not in contradiction to the rules of the rights of nations.

"According to Article 9, Paragraph 4, of the Convention on the Treatment of War Prisoners, of 27 July 1929, no prisoners of war shall be exposed to the fire of the combat zone.

Combat zone in this sense is to be understood as the space in which normally a battle between two armies is carried on, thus extending to a depth of about 20 kilometers from the advance line. Places exposed to possible aerial attacks, however, do not belong to the combat zone. In this age of air warfare there no longer exists any sure shelter. The fact of using war prisoners for the construction of a camp and for the repairing of destroyed runways does not seem to lend itself to any controversy.

"According to Article 31 of the Convention quoted above, war prisoners must not be used in works directly related to war activity. The construction of shelters, houses, and camps is not directly a war act. It is recognized that war prisoners may be employed in the construction of roads. Accordingly their utilization for the reconstruction of aviation camps that have been destroyed is permissible. On the roads, trucks, tanks, ammunition cars, *et cetera,* are driven, and on the aviation fields there are planes. It is all the same.

"On the other hand, it would be illegal to use war prisoners for loading bombs, munitions, *et cetera* on bombers. This would be work directly related to war activity.

"By reason of the legal position explained above, the OKH has rejected the idea of withdrawing French prisoners of war employed on work in the aviation camps."

I draw the attention of the Tribunal to this document. It emphasized the bad faith of the leaders of National Socialist Germany, which was two-fold: In the first place, the note of 7 October 1940, which I have read, acknowledges that it is forbidden by international law to use prisoners of war for the loading of bombs and ammunitions on bombers. But I have just brought proof to the Tribunal that the French prisoners of war were used for this purpose. In the second place, the note of the OKH disputes the dangerous character of the work carried out on the aviation fields.

But the note of "Wilhelmstrasse," to which I shall now refer, and which I submit to the Tribunal under Exhibit Number RF-48 (Document Number F-550), recognizes, on the contrary, that prisoners forced to work on an aviation field incur grave danger because of the military purpose of this work.

I will read to the Tribunal a note of the German Foreign Office dated 14 February 1941, Exhibit Number RF-48 (Document Number F-550):

"Article 87 of the Agreement of 1929 on Prisoners of War provides that, in case of difference of opinion on the subject

of the interpretation of the Agreement, the protecting powers shall offer their services to settle the dispute. To accomplish this, any protecting power may propose a meeting of representatives of the belligerent powers. . . . France herself assumes the responsibilities of a protecting power in questions on prisoners of war."

I shall pass on from this quotation to Paragraph 2 of the same document:

"As to the point in dispute, it is well to call attention to the following:

"The French conception, according to which prisoners of war may not be quartered near airfields and may not be employed in repairing runways, cannot be based on the exact content of Articles 9 and 31; but, on the other hand, it is certain that French prisoners of war quartered and employed under these conditions are in a particularly dangerous situation, because the airfields in occupied territories are used exclusively for German military purposes and thus constitute a special objective for enemy air attacks.

"The American Embassy in Berlin has likewise made a protest against a similar use of British prisoners of war in Germany. So far no answer has been made, because a rejection of this protest might result in German prisoners being employed in similar work in England."

The utilization of war prisoners for the construction of fortifications is substantiated by Document 828-PS, which I file with the Tribunal under Exhibit Number RF-49. It is a letter of 29 September 1944, addressed by the Chief of the German 1st Army Corps to the OKW, to give an account of work on fortifications accomplished by 80 Belgian prisoners of war. I quote:

"According to the teletype referred to, it is reported that in the territory of Stalag I A, Stablack Einsatzbereich 2-213, Tilsit-Loten near Ragnit, there are 40 Belgian prisoners of war and in Lindbach, near Neusiedel, 40 Belgian prisoners of war, who are employed on fortification work."

There remains the task of proving that Allied prisoners, forced to work in Reich armament factories, were associated with the enemy war effort. To this end I first offer Document 1206-PS. This document is a memorandum, dated 11 November 1941, concerning a report made 7 November 1941 by the Reich Marshal. The document, consequently, establishes the direct responsibility of the Defendant Göring. The use of Russian war prisoners is treated in a general way in this document, but it deals also with the use of war prisoners

of Western European countries. I submit this document to the Tribunal as Exhibit Number RF-50, and I read:

"Berlin, 11 November 1941.

"Notes on report made by the Reich Marshal at a meeting of 7 November 1941 in the Reich Ministry for Air.

"Subject: Employment of Russian labor in the war economy."

THE PRESIDENT: Has that already been put in by the United States?

M. HERZOG: I think, Mr. President, that it was presented by the United States Prosecution. I shall, therefore, simply quote an extract, the fifth and sixth paragraphs of the first page, concerning the employment of French and Belgian war prisoners on individual employment in the economy of armament. This use of war prisoners in the Reich munitions factories corresponded to a common plan. It is the result of a systematic policy. The administrative offices for labor deliberately assigned to armament factories all war prisoners who seemed capable of carrying out skilled work. I quote, in this connection, Document 3005-PS, Exhibit RF-51. It is a circular addressed, in 1941, by the Ministry of Labor to the heads of employment offices concerning the use of French and Russian prisoners of war. This document has been submitted and commented upon by my American colleague, Mr. Dodd. I shall, therefore, not read it. I simply point out that this circular deals with the employment of all French war prisoners in the armament factories of the Reich.

After the capitulation of Italy, Italian soldiers who had fallen into the hands of the Germans—they were not called prisoners of war, but rather "military internees"—were forced to work. I offer in this connection, a directive of the Defendant Bormann, of 28 September 1943, Document 657-PS, which I submit to the Tribunal under Exhibit Number RF-52.

The Italian military internees were in three categories; some asked to continue the struggle on the side of the German army; others desired to keep a neutral attitude; others turned their arms against their former allies. The military internees of the second and third categories were, in the terms of the circular, to be forced to work. I read:

"Circular Number 55/43 G.R.S., top secret. Concerning the treatment and employment of Italian military internees.

"The OKW, in connection with the Plenipotentiary General for Allocation of Labor, has regulated the treatment and the employment of Italian military internees. The most important directions of the ordinances of the OKW are the following. . . ."

I shall skip the rest of the first page and proceed to Page 2 of the French translation:

"The Italian internees who, when investigated, do not declare themselves ready to continue the struggle under German command, are put at the disposal of the Plenipotentiary General for Allocation of Labor, who has already given the necessary instructions for their employment to the heads of the regional labor offices.

"It is to be noted that Italian military internees must not be employed together with the British and American prisoners of war. . . ."

The prisoners of war offered passive resistance to German force. The National Socialist authorities intervened again and again to attempt to increase their output. I refer to Document 233-PS, which I submit to the Tribunal under Exhibit Number RF-53. It is a directive of the OKW of 17 August 1944. The purpose is to indicate to the war prisoner bureaus measures capable of increasing the production of the prisoners. I read from the document:

"Subject: Treatment of War Prisoners—Increase in Production.

"The measures taken until now with regard to the treatment of war prisoners and the increasing of their production have not given the hoped-for results. The offices of the Party and those of economy continually complain of the poor labor output of all the war prisoners. The object of this circular is to make known the directives for prisoners of war made in agreement with all interested offices of the Party and State. Accordingly all guard companies and their auxiliaries are to be given detailed instructions.

"1. Collaboration with the Hoheitsträger of the NSDAP.

"The co-operation of all officers in charge of war prisoners with the Hoheitsträger of the Party must be intensified to an even greater extent. To this end the commanders of the prisoners-of-war camps shall immediately detail, for all the Kreise in their command, an energetic officer acquainted with all questions concerning prisoners of war, to act as liaison officer to the Kreisleiter. This officer shall have the duty of settling in closest collaboration with the Kreisleiter, according to the instructions of the camp commander, all questions concerning prisoners of war which might be of public interest.

"The aim of this collaboration must be: (a) To increase the labor output of war prisoners; (b) to solve all arising difficulties quickly and on the spot; (c) to organize the employment of war prisoners in the Kreise in such a way that it meets with the political, military, and economic requirements.

"The Chancellery of the Party will give the necessary orders to the Gauleiter and the Kreisleiter.

"2. Treatment of prisoners of war. The treatment of prisoners of war shall be dictated, within limits compatible with security, by the sole purpose of increasing the labor output to the utmost extent. In addition to just treatment, providing the prisoners with the food due them according to stipulations, and with proper billets, supervision of the labor output is necessary to achieve this highest possible production.

"Available means must be employed with extreme rigor as regards lazy and rebellious prisoners."

The resistance of war prisoners caused the German labor bureaus to use a subterfuge to force them to work. I refer to the operation called the transformation of war prisoners into free workers. It consisted in transforming prisoners of war into so-called free workers, to whom a labor contract was offered. The operation was perfected by the Defendant Sauckel in the course of one of his trips to Paris on 9 April 1943. To Germany it offered the advantage of permitting the use of transformed prisoners in armament factories without directly violating the Geneva Convention. For the prisoners it presented only an illusory advantage, the decrease of the surveillance to which they were subjected. In reality the length and the nature of the work imposed upon them was in no way changed; their housing conditions and the quality of their rations remained unchanged. Moreover, this operation, presented by German propaganda as a special measure to war prisoners, brought about a deterioration of their legal status.

The prisoners of war were not fooled; in most cases they refused to co-operate with this German maneuver. Some agreed to do it, but a number of these took advantage of the first leave granted them because of their change in status, and fled. The report of the Statistical Institute on Forced Labor, which I submitted to the Tribunal this morning under Exhibit Number RF-22, (Document Number F-515) gives in this connection the following information. I quote it, Page 70 of the French text, Page 70 of the German translation. I shall read the second paragraph:

"The transformation of prisoners into 'free' workers, which was realized or carried out as the second Sauckel act and which because of this fact must be counted in the present list as dating from 25 April 1943, was decided by him, Sauckel, in the course of a trip to Paris on 9 April 1943. It was to afford, after the prisoner had signed his contract, leave to go to France which was dependent on the return of the men who had gone on leave before. Two attempts were made to carry

out this plan. As of 24 April 1943, out of 1,000 on leave, 43 did not return. In the month of August following, out of 8,000 on leave, 2,000 did not return. A last appeal directed to them was published in the press of 17 August without result. There is no third experiment, and the transformation in practice limited itself to the removal of sentinels and of camp guards, but did not change either the nature or the duration of the work or the housing conditions or the rations. On the other hand, it entailed loss of rights to receive packages from the International Red Cross and loss of the diplomatic protection of prisoners of war."

The forced utilization of war prisoners did not permit the German authorities to solve the labor problem of the war economy. That is why they applied their policy of force to the civilian populations of the occupied territories.

The National Socialist authorities systemized their policy of force, from 1942 on, by instituting compulsory labor in the different occupied territories. From the end of 1941 it has been confirmed that neither the recruiting of voluntary workers nor the utilization of prisoners led to a solution of the problem of the labor required for the war economy. The Germans then decided to proceed to the forced enrollment of civilian workers. They decreed a veritable civilian mobilization, the execution of which characterizes their criminal activity.

I refer to a circular of 29 January 1942, issued by Dr. Mansfeld on the responsibility of the Defendant Göring. I remind the Tribunal that I have submitted this Document Number 1183-PS already under Exhibit Number RF-26. I read the passage from the document where I stopped this morning, Page 2, last paragraph of the French translation, Page 2; last paragraph also of the German original:

"In order to avoid effects detrimental to the armament industry, all considerations must yield to the necessity of filling in every case the gaps in the labor supply caused by extensive drafting into the Wehrmacht. To this end the forced mobilization of workers from the occupied territories must not be overlooked if voluntary recruitment should not succeed. The mere possibility of compulsory mobilization will, in many cases, facilitate recruiting.

"Therefore I ask you to take immediate steps in your district to promote the employment of workers in the German Reich on a voluntary basis. I herewith request you to prepare for publication, regulations to render possible forced mobilization of labor in your territory for Germany, so that they may be decreed at once in case recruiting on a voluntary basis remains without the success necessary to relieve labor in the Reich."

The appointment of the Defendant Sauckel may be considered as preparatory measure for the establishment of compulsory labor. It was necessary that a central authority be set up in order to coordinate the activity of the different labor departments to proceed to the mobilization of civilian workers. The terms explaining the motives of the decree of appointment are explicit: The mission of the Plenipotentiary for Allocation of Labor consists in satisfying the labor needs of the German economy through the recruiting of foreign workers and the utilization of war prisoners. The decree of Sauckel dated 22 August 1942, which I have submitted to the Tribunal under Document Number RF-17, expresses, moreover, the will of the defendant to set about recruiting by means of coercion.

The institution of compulsory labor represents deliberate violation of international conventions. The deportation of workers is forbidden by several stipulated regulations which have the value of actual law. I shall quote, first of all, Article 52 of the Annex to the Fourth Convention of the Hague. I have already given a commentary on it to the Tribunal to demonstrate that the requisitioning of labor effected by the occupation authorities was illegal. Much more, the institution of compulsory labor was prohibited by Article 52. Compulsory labor was imposed upon foreign workers in the interest of the German war economy. It was carried out in armament factories of National Socialist Germany. It deprived the occupied territories of labor necessary for the rational exploitation of their wealth. It therefore is not within the framework of that labor requisition which Article 52 of the Hague Convention authorizes.

The prohibition of forced labor is, moreover, affirmed by another international convention. It is a question of the Convention of 25 September 1926 on slavery, of which Germany is a signatory. This treaty makes forced labor equivalent to slavery in its Article 5. I ask the Tribunal to refer to it.

Deportation of workers is the subject of a formal prohibition. Forced labor in German war factories was, therefore, instituted in flagrant violation of international law and of all pledges subscribed to by Germany. The National Socialist authorities transgressed positive international law; they likewise violated the law of nations. The latter guarantees individual liberty, on which the principle of forced recruitment is a characteristic attack.

The violation of treaties and the contempt of the rights of individuals are the tenets of National Socialist doctrine. Therefore, the defendants proceeded not merely to the mobilization of foreign workers; they proclaimed the necessity and the legitimacy of forced labor. I shall, first of all, indicate to the Tribunal certain declarations made by the defendants which amount to admissions. I shall thereupon indicate how the occupation authorities introduced the

service of compulsory work in the different occupied territories. I shall demonstrate, finally, that the Germans took measures of violent coercion in an attempt to assure the execution of the civilian mobilization which had been decreed.

The legitimacy of forced enrollment has been upheld by Hitler. The proof of this can be found in the report of the Führer conferences held on 10, 11, and 12 August 1942. It is contained in Document R-124 which I presented this morning under Exhibit Number RF-30. I shall not read it to the Tribunal, because my American colleague, Mr. Dodd, has done so during his presentation on forced labor. I point out that the document to which I refer indicates that the Führer was in agreement with the exercise of all the necessary compulsion in the East as well as in the West, if the question of recruiting foreign workers could not be regulated on a voluntary basis.

The necessity of making use of compulsory labor was expressed in identical terms by certain defendants.

I shall not stress the numerous statements of the Defendant Sauckel to which I have already drawn the attention of the Tribunal. The explanatory statement of his decree of 22 August 1942, the program included in his letter of 24 April 1942, and the policy advocated in his speech at Posen in February 1943, reproduce faithfully the determination of the defendant to justify the principle of forced recruiting. I shall not revert to this.

I present to the Tribunal the declaration of the Defendant Jodl. This declaration is an extract from a long speech made by General Jodl, 7 November 1943 at Munich before an audience of Gauleiter. This speech is Document L-172. I offer it in evidence to the Tribunal under Exhibit Number RF-54. I shall read Page 2 of the French translation, Pages 38 and 39 of the German original:

> "The dilemma of manpower shortage has led to the idea of making more thorough use of the manpower reserves in the territories occupied by us. Here right and wrong conceptions are mixed together. I believe that as far as labor is concerned, the utmost has been done, but where this is not yet the case, it would appear preferable from the political point of view to abstain from compulsory measures and instead to aim at order and economic effort. In my opinion, however, the time has now come to take steps with remorseless vigor and resolution in Denmark, Holland, France, and Belgium to compel thousands of idle persons to carry out fortification work, which takes precedence over all other tasks. The necessary orders for this have already been given."

The German Labor Service had not waited for the appeal of General Jodl to decree the mobilization of civilian foreign workers.

I am going to show the Tribunal how compulsory labor was instituted and organized in France, Norway, Belgium, and Holland.

I should like to remind the Tribunal that in Denmark there was never any legal regulation for forced labor and that forced labor was carried out as a simple *de facto* measure.

I also wish to remind the Tribunal that compulsory labor was introduced in a special form in Luxembourg and in the French departments of Alsace and Lorraine. The occupation authorities incorporated the citizens of Luxembourg and the French citizens residing in the departments of Bas-Rhin, Haut-Rhin, and Moselle, in the labor service of the Reich. This incorporation was carried out by ordinances of Gauleiter Simon and Gauleiter Wagner. The ordinances constitute an integral part of the Germanization plan for territories of Luxembourg, Alsace, and Lorraine. Their scope exceeds that of the measures of forced enrollment which were taken in other occupied territories. That is why I refer the Tribunal, on this point, to the explanation which will be given in the trial brief of M. Edgar Faure.

Two German texts of a general nature serve as a foundation for the legislation on forced labor in the occupied territories of Western Europe.

The first is the decree of Sauckel of 22 August 1942, to which I have drawn the attention of the Tribunal on several occasions. This decree prescribes the mobilization of all civilian workers in the service of the war economy. Article 2 prescribes that this decree is applicable to occupied territories. This decree of 22 August 1942 thus constitutes the legal charter of the civilian mobilization of foreign workers. This mobilization was confirmed by an order of the Führer of 8 September 1942. It is Document 556(2)-PS, Exhibit Number RF-55, which I submit to the Tribunal and from which I shall read:

> "The Führer and Supreme Commander of the Wehrmacht; General Headquarters of the Führer: 8 September 1942.
>
> "The extensive coastal fortifications which I have ordered to be erected in the area of Army Group West necessitate in the occupied territory the utilization of all available workers to the fullest extent and to their utmost capacity. The assignment of indigenous workers, made up to now, is insufficient. In order to increase it, I order the introduction of compulsory labor and the prohibition of changing the place of employment without permission of the authorities in the occupied territories.
>
> "Furthermore, in future, the distribution of food and clothing ration cards to those subject to compulsory labor shall depend on the possession of a certificate of employment.

Refusal to accept an assigned job, as well as leaving the place of work without the consent of the authorities in charge, will result in the withdrawal of the food and clothing ration cards.

"The GBA"—that is, the office of the Defendant Sauckel—"in agreement with the military commanders or the Reich Commissioners, will issue the appropriate directives."

The forced enrollment of foreign workers was preceded by preliminary measures to which the order of 8 September 1942 refers—which I have just read. I am speaking of the freezing of labor. To carry out the mobilization of workers it was necessary for the public services to exercise strict control over their use in the industrial enterprises of occupied territories. This control had a double purpose: It was to facilitate the census of workers suitable for work in Germany and to prevent workers from avoiding the German requisition by alleging a real or fictitious employment. The National Socialist authorities exercised this control by restricting the liberty of hiring and discharging, which they had given to the authorities of the labor bureaus.

In France, the freezing of labor was brought about by the law of 4 September 1942. I shall shortly explain to the Tribunal the conditions under which this law was formulated. I shall, for the moment, simply submit it to the Tribunal under Document Number RF-56 and ask the Tribunal to take judicial notice of it.

In Belgium, the freezing of labor was carried out by the ordinance of the military commanding officer of 6 October 1942. I submit Document Number RF-57, of which I ask the Tribunal to take judicial notice.

Finally, in Holland, where compulsory labor was instituted as early as 1941, an ordinance of the Reich Commissioner, dated 28 February 1941, which I offer to the Tribunal under Document Number RF-58, organized the freezing of labor.

The immobilization of labor was brought about under an economic pretext in all countries. In reality it constituted a preliminary measure for the mobilization of workers, which the National Socialists immediately proceeded to carry out.

In France compulsory labor was established by the legislation of the pseudo-government of Vichy, but this legislation was imposed upon the *de facto* French authorities by the defendants, and especially by Sauckel. The action which Sauckel brought against the Government of Vichy, to force it to favor the deportation of workers into Germany, was exercised in four phases: I shall briefly review for the Tribunal the history of these four Sauckel actions.

The first Sauckel action was initiated in the spring of 1942, soon after the appointment of the defendant as Plenipotentiary for Allocation of Labor. The German armament industry had an urgent need of workers. The service of the Arbeitseinsatz had decided to recruit 150,000 skilled workers in France. Sauckel came to Paris in the month of June 1942. He had several conversations with French ministers. Otto Abetz, German ambassador in Paris, presided over these meetings. They brought about the following results:

In view of the reluctance of French authorities to establish compulsory labor, it was decided that the recruiting of 150,000 skilled workers should be carried out by a pseudo-voluntary enrollment. This was the beginning of the so-called exchange operation, to which I have already drawn the attention of the Tribunal.

But the Tribunal knows that the exchange operation was a failure and that, despite an intensification of German propaganda, the number of voluntary enrollments remained at a minimum. The German authorities then put the Vichy Government under the necessity of proceeding to forced enrollment. I offer in evidence the denunciatory letter of 26 August 1942, addressed by the German, Dr. Michel, Chief of the Administrative Staff, to the Delegate General for Franco-German economic relations. This is French Document F-530, which I shall submit to the Tribunal as Exhibit Number RF-59:

"Paris, 26 August 1942.

"Military Commander in France, economic section; to M. Barnaud, Delegate General for Franco-German Economic Relations; Paris.

"President Laval promised Gauleiter Sauckel, Plenipotentiary General for Allocation of Labor, to make every effort to send to Germany, to help German armament economy, 350,000 workers, of which 150,000 should be metal workers.

"The French Government intended at first to solve this problem by recruitment, especially of the *affectés spéciaux*. This method has been abandoned and that of voluntary enrollment has been attempted with a view to the liberation of prisoners. The past months have shown that the end in view cannot be achieved by means of voluntary recruitment.

"In France, German armament orders have increased in volume and urgency. Moreover, special tasks have been set, the accomplishment of which depends upon the supply of a very considerable number of workers.

"In order to assure the realization of the tasks for which France is responsible in the sphere of the Arbeitseinsatz,

the French Government must now be asked to put into execution the following measures:

"1) The publication of a decree, concerning change of place of work. By virtue of this decree, leaving the place of employment and engaging labor depends on the approval of certain specified authorities.

"2) The institution of compulsory registration of all persons out of work, as well as of those who do not work full time or are not permanently employed. This compulsory registration is to ensure the fullest recruitment possible of all the reserves still available.

"3) The publication of a decree for the mobilization of workers for tasks important to the policy of state. This decree is to ensure: (a) The necessary labor for Germany; (b) the workers necessary in France for the carrying out of orders which have been transferred there and the workers needed for special tasks.

"4) Publication of a decree ensuring an adequate supply of apprentices. This decree is to impose upon French enterprise the duty of turning out, by means of apprenticeship and systematic training, young workers possessing adequate qualifications.

"For the Military Commander, the Chief of the Administrative Staff."—signed—"Dr. Michel."

Dr. Michel's letter forms the basis for the law relative to the utilization and the allocation of labor. It is the law of 4 September 1942, which I have submitted to the Tribunal under Document Number RF-56.

In application of the law, all Frenchmen between 18 and 50 who did not have employment for more than 30 hours a week, were forced to state this at their local town hall. A decree of 19 September 1942 and a directive of 22 September provided regulations as to how this declaration had to be made.

Sauckel's first action was achieved through a legislative plan; the defendant had merely to dip into the labor resources which were established by it. But the resistance of the French workers caused his recruiting plan to fail. This is why Sauckel undertook his second action, beginning in January 1943.

The second Sauckel action is marked by the introduction of compulsory labor, properly speaking. Until then workers had been the only victims of the policy of force of the defendants. The latter understood the demagogic argument which they could derive from this *de facto* situation. They explained that it was inadmissible that the working classes of the occupied territory should be the only

ones to participate in the German war effort. They demanded that the basis of forced labor be enlarged by the introduction of compulsory labor.

This was established by two measures. A directive of 2 February 1943 prescribed a general census of all French males born between 1 January 1912 and 1 January 1921. The census took place between 15 and 23 February. It had just been put in force when the law and decree of 16 February 1943 appeared. These regulations introduced compulsory labor for all young men born between 1 January 1920 and 31 December 1922. I submit them to the Tribunal under Documents Numbers RF-60 and 61, of which I ask the Court to take judicial notice.

The action carried out by the defendants to impose this exceptional legislation is substantiated by numerous documents. I particularly draw the attention of the Tribunal to four of these, which permit us to retrace the activities of the Defendant Sauckel during the months of January and February 1943. On 5 January 1943 Sauckel transmitted to the different departments of his administration an order of the Führer, which the Defendant Speer had communicated to him. This is Document 556(13)-PS, which I submit to the Tribunal under Exhibit Number RF-62. I shall read its first paragraph:

> "On 4 January 1943, at 8 o'clock in the evening, Minister Speer telephoned from the general headquarters of the Führer giving the information that, by virtue of a decision of the Führer, it was no longer necessary, when recruiting skilled and unskilled labor in France, to have any particular regard for the French. Recruitment could be carried on there with pressure and more severe measures."

On 11 January 1943 the Defendant Sauckel was in Paris. He attended a meeting which brought together at the Military Commander's all responsible officials of the labor service. He announced to them that new measures of compulsion were to be taken in France. I refer you to the minutes of the meeting which constitute Document 1342-PS, which I submit to the Tribunal under Exhibit Number RF-63. I shall read from Page 2 of the French translation; Page 1, fourth line, of the second paragraph of the German original:

> "Gauleiter Sauckel likewise thanks the various services for the successful carrying out of the first action. Immediately after the beginning of the new year, he is obliged to announce further severe measures. There is a great new need of labor for the front as well as for the Reich armament industry."

I skip to the end of the paragraph. I shall read from the next paragraph:

"The situation at the front calls for 700,000 soldiers fit for front-line service. The armament industry would have to lose 200,000 key workers by the middle of March. I have received an order from the Führer to find 200,000 foreign skilled workers as replacements and I shall need for this purpose 150,000 French skilled workmen, while the other 50,000 can be drawn from Holland, Belgium, and other occupied countries. In addition, 100,000 unskilled French workers are necessary for the Reich. The second action of recruitment in France makes it necessary that by the middle of March 150,000 skilled workers and 100,000 unskilled workmen and women be transferred to Germany."

The Defendant Sauckel went back to Germany a few days later. On 16 February he was in Berlin at the meeting of the Central Planning Board. He gave a commentary on the law which was to appear that very day and revealed that he was the instigator of it. I refer once more to the minutes of the conferences of the Four Year Plan, included under Document Number R-124, which I submitted this morning to the Tribunal under Exhibit Number RF-30. I shall read an extract from this document, which my American colleagues have not mentioned. It is Page 7 of the French translation of the document, Page 2284 of the German original; this is the situation in France:

"My collaborators and I having succeeded, after difficult discussions, in persuading Laval to introduce the law of compulsory labor in France, this law has now been so successfully extended, thanks to our pressure, that by yesterday three French age-groups had already been called up. So we are now legally qualified to recruit in France, with the assistance of the French Government, workers of three age-groups whom we shall be able to employ henceforth in French factories, but among whom we shall also be able to choose some for our own needs in the Reich and send them to Germany."

The Defendant Sauckel returned to France on 24 February. I offer in evidence to the Tribunal the letter which he addressed to Hitler before his departure, to inform him of his journey. It proves the continuity of the action of Sauckel. The letter constitutes Document 556(25)-PS, which I submit to the Tribunal under Exhibit Number RF-64, and I shall read it:

"Plenipotentiary General for Allocation of Labor, to the Führer; general headquarters of the Führer.

"My Führer:

"I beg herewith to take leave of you before my intended journey to France. The purpose of my journey is:

"1) To put at the disposal of the Reich, within the given time, skilled labor to replace German key workers being drafted into the Wehrmacht. May I add that Field Marshal Keitel and General Von Unruh received a communication from me yesterday to the effect that half of these replacements for key men, that is 125,000 French qualified skilled men, have already arrived in the Reich on 1 January 1943 and that a corresponding number of soldiers can be called to the colors. I shall now make sure in France that the second half shall arrive in the Reich by the end of March, or earlier if possible. The first French program was executed by the end of December.

"2) To assure the necessary labor for the French dockyards for the carrying out of the programs drawn up by Grand Admiral Dönitz and Gauleiter Kaufmann.

"3) To assure the necessary labor for the programs of the Luftwaffe.

"4) To assure the necessary labor for the other German armament programs which are in progress in France.

"5) To make available supplementary labor in agreement with State Secretary Backe, with a view to intensifying French agricultural production.

"6) To have discussions, if necessary, with the French Government on the subject of the carrying out of the labor service, the calling up of age-groups, and so forth, with a view to activating the recruitment of labor for the benefit of the German war economy."

THE PRESIDENT: I think that is a good time to break off.

[The Tribunal adjourned until 19 January 1946 at 1000 hours.]

THIRTY-EIGHTH DAY

Saturday, 19 January 1946

Morning Session

M. HERZOG: Mr. President, Your Honors, at the end of yesterday's session I was expounding to the Tribunal the conditions under which the compulsory labor service was progressively imposed in France. I reached the second action of the Defendant Sauckel as set out in the laws and decrees of 16 February 1943. Sauckel's second action accelerated the enforced enrollment of Frenchmen during the months of February and March 1943. Several tens of thousands of young men of the 1940 and 1942 classes were deported to Germany by the application of the law of 16 February. The tempo of these deportations slowed down in the month of April, but the Arbeitseinsatz immediately formulated new requirements. On 9 April 1943 the Defendant Sauckel asked the French authorities to furnish him with 120,000 workers during the month of May and 100,000 during the month of June. In June he made it known that he wished to effect the transfer of 500,000 workers up to 31 December.

Sauckel's third action was about to begin. It was to be marked, on 3 June 1943, by the total mobilization of the 1942 class. All exemptions provided by the law of 16 February and subsequent texts were withdrawn, and the young men of the 1942 class were tracked down throughout France.

In reality, Sauckel's third action was especially manifested by a violent pressure on the part of the defendant, tending towards a mass deportation by forced recruiting. I offer in evidence three documents which testify to the action taken by Sauckel in the summer of 1943.

The first document is a letter from Sauckel to Hitler, dated 27 June 1943. Drafted by the defendant upon his return from a trip to France, it contains an outlined plan for the recruiting of French workers for the second half of 1943. Its object was, on the one hand, to secure 1 million workers to be assigned in France to French armament factories and, on the other hand, 500,000 French workers to be deported to Germany. This letter constitutes Document 556(39)-PS, which I submit to the Tribunal as Exhibit Number RF-65. I quote:

"Weimar, 27 June 1943.

"My Führer:

"Herewith I beg to report my return from my official trip to France.

"Inasmuch as the free labor reserves in the territories occupied by the German Armed Forces have been, numerically, absorbed to saturation point, I am now carefully examining the possibilities of mobilizing additional labor reserves in the Reich and the occupied territories to work on German war production.

"In my reports of 20 April I was allowed to point out that intensive and careful utilization must be made of European labor forces in territories submitted to direct German influence.

"It was the purpose of my recent stay in Paris to investigate the possibilities still existing in France for the recruitment of labor by extensive conferences and my own personal inspection. On the basis of a carefully established balance sheet I have come to the following decision:

"1. Assuming that war economy measures are carried out in France which would at least prove partially effective or approximately approach, in efficacy, the measures carried out in Germany, a further million workers, both men and women, could be assigned to the French war and armament industries up to December 1943 for work on German orders and assignments. In this case additional German orders might be placed in France.

"2. In consideration of these measures and given a careful study of the subject together with the co-operation of our German armament services and the German labor recruiting offices, it should be possible to transfer a further 500,000 workers, both men and women, from France to the Reich between now and the end of the year.

"The prerequisites for the realization of this program, drafted by me are as follows:

"1. Closest collaboration between all German offices especially in dealing with the French services.

"2. A constant check on French economy by joint commissions, as already agreed upon by the Reich Minister of Armaments and War Production Party Member Speer, and myself.

"3. Constant, skillful, and successful propaganda against the cliques of De Gaulle and Giraud.

"4. The guarantee of adequate food supplies to the French population working for Germany.

"5. An emphatic insistence on this urgency before the French Government, in particular before Marshal Pétain, who still represents the main obstacle to the further recruiting of French women for compulsory labor.

"6. A pronounced increase in the program which I have already introduced in France, for retraining workers to trades essential to war production."

I skip the next and read the last paragraph:

"I therefore beg you, my Führer, to approve my suggestion of making available 1 million French men and women for German war production in France proper in the second half of 1943 and, in addition, of transferring 500,000 French men and women to the Reich before the end of the current year.

"Yours faithfully and obediently,"—Signed—"Fritz Sauckel."

The document to which I would now like to call the Tribunal's attention proves that the Führer gave his approval to Sauckel's program. A note drawn up on 28 July 1943 by Dr. Stothfang, under the letter-head of the Plenipotentiary General for Allocation of Labor (Arbeitseinsatz), gives a report on a discussion between Sauckel and the Führer. It is Document 556(41)-PS, which I submit to the Tribunal as Exhibit Number RF-66. I shall limit myself to reading the last paragraph:

"d) The transfer envisaged for the end of the year of 1 million French workers to the war industries in France, and the intended transportation of 500,000 other French workers to the interior of the Reich has been approved by the Führer."

Finally a document establishes that the Defendant Sauckel, on the strength of Hitler's approval, attempted to realize his program by working on the French authorities. This document is a letter from Sauckel to Hitler. It is dated 13 August 1943, upon the defendant's return from a trip to France, Belgium, and Holland. It is Document 556(43)-PS. I shall read it to the Tribunal. It is Exhibit Number RF-67:

"Weimar, 13 August 1943.

"My Führer:

"I beg to report my return from my official trip to France, Belgium and Holland. In tough, difficult, and tedious negotiations I have imposed upon the occupied Western territories, for the last 5 months of 1943, the program set forth below and have prepared very detailed measures for realizing it: In France—with the military commander, the German Embassy, and the French Government; in Belgium—with the

military commander; and in Holland with the offices of the Reich Commissioner.

"The program provides:

"1. In France the transfer of 1 million French workers, both men and women, from the civilian to the German war industries in France. This measure will enable further considerable placing of German orders in France.

"2. Soliciting and recruiting of 500,000 French workers for work in Germany. This figure should not be made known publicly.

"3. In order to stalemate any passive resistance from large groups of French officials, I have ordered, in agreement with the military commander in France, the introduction of labor recruiting commissions for each two French departments and placed them under the supervision and direction of the German Gau offices. Only in this manner can the complete recruitment of the French labor potential and its intensive utilization be made possible. The French Government has given its approval."

If the Tribunal will allow me, I shall quote the rest of this letter; the following paragraphs concern Belgium and Holland. It will allow me to refer to this document later without reading it again:

"4. A program was secured in Belgium for the employment of 150,000 workers in the Reich and, with the approval of the military commander in Belgium, an organization for compulsory labor corresponding to that in France was decided upon."

I skip and proceed to the fifth paragraph:

"5. A program has likewise been prepared for Holland, providing for the transfer of 150,000 workers to Germany and of 100,000 workers, men and women, from Dutch civilian industries to German war production."

Such was Sauckel's program in 1943. His plan was partly thwarted by the resistance of officials and patriotic workers. Proof of this is furnished by an admission of the defendant. I am referring to the report on a conference of the central office for the Four Year Plan held on 1 March 1944. I submitted this document to the Tribunal yesterday as Exhibit Number RF-30 (Document R-124). I shall read from the first page of the French translation, second paragraph, German text, Page 1768:

"Last autumn, as far as foreign manpower is concerned, the labor recruiting program has been severely battered. I do not wish to elaborate on the reasons here. They have been

discussed at length; all I have to say is: The program has been wrecked."

Sauckel, however, was not discouraged by the difficulties encountered in 1943. In 1944 he attempted to realize a new program by the trick of his fourth action.

The National Socialist authorities decided to secure, in 1944, the transfer of 4 million foreign workers to Germany. This decision was made on 4 January 1944 during a conference at the headquarters of the Führer and in his presence. The report on this conference constitutes Document 1292-PS. I submit it herewith to the Tribunal as Exhibit Number RF-68, and I read from Page 3 of the French translation, Page 6 of the German original, last paragraph:

"Final results of the conference:

"1. The Plenipotentiary General for Allocation of Labor shall procure at least 4 million new workers from the occupied territories."

The details concerning the contingents demanded from each occupied territory must have been determined on 16 February 1944, during a conference of the central office for the Four Year Plan. I submitted the report of this session at the outset of my explanations, under Exhibit Number RF-20. I am quoting the conclusions today. They will be found in Document Number F-675, first page of the translation, third page of the German original.

"Results of the 53rd session of the Central Planning Board. Labor recruiting in 1944.

"1. About 500,000 new workers might be mobilized from German home reserves by extraordinary efforts. . . ."

I skip the rest.

"2. Recruiting of Italian labor to the number of 1,500,000; of these—1 million at the rate of 250,000 per month from January to April and 500,000 from May to December;

"3. Recruiting of 1 million French workers at equal monthly rates from 1 February to 31 December 1944 (approximately 91,000 per month);

"4. Recruiting of 250,000 workers from Belgium;

"5. Recruiting of 250,000 workers from the Netherlands."

I abstain from quoting since the other paragraphs concern the Eastern European countries.

The Tribunal has seen that France was called upon to furnish a large contingent of workers. After the 15th of January, Sauckel went to Paris to dictate his demands to the French authorities.

The fourth Sauckel action consisted of two distinct measures: The adoption of the procedure known as the combing of industries,

and the publication of the law of 1 February 1944, which widened the sphere of application of compulsory labor. The system of combing the industries led the labor administration to carry out direct recruiting in the industrial enterprises. Mixed Franco-German commissions were set up in each country. They determined the percentage of workers to be deported. They proceeded to requisition and transfer them.

The practice of combing the industries represents the realization of the projects elaborated by Defendant Sauckel as early as 1943. In the documents which I have read to the Tribunal Sauckel announced, in fact, his intention of creating mixed labor commissions.

The law of 1 February 1944 marked the culminating point of Sauckel's actions in the field of legislation. It extends the scope of application of the law of 4 September 1942. As from February 1944 all men between the ages of 16 and 60 and all women between the ages of 18 and 45 were subject to compulsory labor. I submit to the Tribunal the law of 1 February 1944 under Exhibit Number RF-69 (Document RF-69) with the request judicial notice be taken of it.

The proof of the pressure that Sauckel exerted on the French authorities in order to impose on them the publication of this law is furnished by a report of the defendant to Hitler. This report is dated 25 January 1944. It was, therefore, drafted during the negotiations which characterized the fourth Sauckel action. It constitutes Document 556(55)-PS, which I submit to the Tribunal under Exhibit Number RF-70. I shall read this document:

"My Führer:

"On the 22d of January 1944 the French Government, together with Marshal Pétain, accepted to a large degree my demands for increasing the working week from 40 to 48 hours as well as for extending the compulsory labor law in France and utilizing French manpower in Germany.

"The Marshal did not agree to the compulsory labor for French women in the Reich; but he did agree to compulsory labor for women inside France, limited to women between the ages of 26 and 45. Women between 15 and 25 are to be employed only at their place of residence.

"Since this, nevertheless, represents appreciable progress in comparison with the extremely difficult negotiations which I had to conduct in Paris, I approved this law in order to save further loss of time, on condition that the German demands were energetically met and carried out.

"The French Government has likewise accepted my demand that French officials sabotaging the enforcement of the

compulsory labor law should be punished by severe penalties including the death penalty. I have left no doubt that further and more rigid measures will be adopted if the demands for the manpower required are not fulfilled.

"Your ever obedient and faithful, Fritz Sauckel."

I draw the attention of the Tribunal to the problem of compulsory labor of women referred to in the two preceding documents. For a long time the French authorities categorically opposed the introduction of female labor. In return the Defendant Sauckel did not cease to exercise violent pressure.

On the 27th of June 1943, in a letter to Hitler, he suggested that an energetic statement of German needs be made before the French Government. I have already quoted this letter to the Tribunal, Exhibit Number RF-65 (Document 556(39)-PS). I shall not revert to it, but I emphasize the fact that the law of 1 February did not satisfy Sauckel and did not in the least appease his demands at all. His dissatisfaction and his determination to pursue his policy of compulsion become apparent from a report of 26 April 1944, bearing his signature; that the report has been forwarded is certified by Berk, one of his assistants.

There actually were four reports submitted jointly under Document Number 1289-PS, Exhibit Number RF-71, and I quote from the second page:

"1) France. The problem of women.

"At the time of the promulgation of the French compulsory labor law, the French authorities (Marshal Pétain in particular) have urgently desired that women be exempted from performing compulsory labor in Germany. In spite of serious objections the G.B.A. approved of this exemption. The reservation was made, however, that the approval was given on condition that the contingents imposed were met; or else the G.B.A. would reserve himself the right of taking further measures. Inasmuch as the contingents are far from being met, the demand for extending the compulsory labor service to women must also be addressed to the French Government."

The fourth Sauckel action, therefore, was led in such a manner as to utilize all of France's manpower. The French resistance and the development of the military operations hindered the execution of the Sauckel plan. The defendant, in the meantime, had contemplated extraordinary measures to be taken on the day the allied armies were to land. I quote again Document 1289-PS, Exhibit Number RF-71; and I read on Page 3:

"Measures concerning compulsory labor in the case of invasion:

"To some extent precautions already have been taken to evacuate the population of those areas invaded and to protect valuable manpower from being seized by our enemies. In view of the actual situation of labor utilization in Germany, it is necessary to induct efficient workers to the greatest extent possible into efficacious employment within the Reich. Orders to this effect on the part of the Wehrmacht are indispensable for carrying out these measures.

"The following text might be proposed for an order by the Führer. . . ."

I shall not read the text of the order proposed by Sauckel.

The Allied victory, however, came so quickly that Sauckel did not have the chance to realize fully his plan of mass deportation. All the same, he started to carry it out, and deportations of workers went on up to the day of liberation of the territory. Several hundred thousand French workers were finally stationed in Germany as a result of the various Sauckel actions. Will the Tribunal please bear this in mind.

The compulsory labor service was introduced in Norway in the same manner as in France. The defendants imposed upon the Norwegian authorities the publication of a law instituting the compulsory registration of Norwegian citizens, and prescribing their enrollment by force. I quote in this respect the preliminary report on the crimes of Germany against Norway, a report prepared by the Norwegian Government and submitted to the Tribunal as Document Number UK-79. I now submit it as Exhibit Number RF-72, and I quote from the first page, third paragraph:

"The result of Sauckel's order as to Norway was that on 3 February 1943, a Quisling 'law' relating to compulsory registration of Norwegian men and women for so-called 'national labor effort' was promulgated. Terboven and Quisling openly admitted that the law was promulgated in order that the Norwegian people should use their manpower for the benefit of the German war effort. In a speech on 2 February Terboven stated, among other things, that he himself and the German Reich stood behind this law; and he threatened to use force against anyone who tried to prevent its execution."

In Belgium and in the Netherlands the German authorities used a direct procedure. The compulsory labor service was organized by ordinances of the occupying power.

In Belgium these were ordinances of the military commander and in the Netherlands ordinances of the Reich Commissioner. I remind the Tribunal of the fact that the authority of the military commander in Belgium extended to the north of France.

An ordinance of 6 March 1942 established the principle of compulsory labor in Belgium. It was published in the Belgian *Verordnungsblatt* of 1942, Page 845. I submit it to the Tribunal as Document Number RF-73, and I ask the Tribunal to take judicial notice of it. The ordinance of 6 March excluded the possibility of forced deportation of workers to Germany. However, such deportation was ordered by a decree of 6 October 1942, which was published in the Belgian *Verordnungsblatt* of 1942, Page 1060. I submitted it to the Tribunal as Document Number RF-57 in the course of my explanations.

These carryings-on in Belgium gave rise to interventions and protests by leading Belgian personalities, among others the King of Belgium and Cardinal Van Roay.

The ordinances instituting compulsory labor in Belgium and the north of France bore the signature of General Von Falkenhausen, but the latter proclaimed his ordinance of 6 October on the order of Sauckel. I refer once more to the testimony of General Von Falkenhausen, which I have submitted to the Tribunal as Document Number RF-15. I ask your permission to quote the following passages, first page, fifth paragraph:

"Q: 'On 6 October 1942 a decree was published which instituted compulsory labor in Belgium and in the departments of northern France for men between the ages of 18 and 50 years and for single women from 21 to 25 years.'

"A: 'I was Commander-in-Chief for northern France and Belgium.'

"Q: 'Does the witness recall having promulgated this decree?'

"A: 'I do not remember exactly the text of this decree because it was issued following long arguments with the labor deputy Sauckel.'

"Q: 'Did you have any trouble with Sauckel?'

"A: 'I was fundamentally opposed to the establishment of compulsory labor, and consented to promulgating the decree only after receiving orders.'

"Q: 'Then this decree was not issued on the initiative of Von Falkenhausen himself?'

"A: 'On the contrary.'

"Q: 'Who gave instruction in this matter?'

"A: 'I suppose that at that time Sauckel was already responsible for manpower and that at that time he gave me all instructions on Hitler's orders.'"

I skip and take up the quotation again on Page 3 of the French translation, fourth paragraph:

"Q: 'Since you were opposed to the idea of compulsory labor, didn't you protest when you received these instructions?'

"A: 'There were unending quarrels between Sauckel and myself. In the end this contributed greatly to my resignation.'"

The violence of the pressure exerted by the Defendant Sauckel in Belgium in order to impose his plan of recruitment by force is also demonstrated by the document which I have just submitted to the Tribunal as Exhibit Number RF-67 (Document Number 556(43)-PS). The Tribunal will remember that it is the report addressed on 13 August 1943 by Sauckel to Hitler on his return from France, Belgium, and Holland.

Finally, I have to deal with the introduction of compulsory labor in the Netherlands. I request the Tribunal to charge the Defendant Seyss-Inquart as well as the Defendant Sauckel with the institution of compulsory enrollment in the occupied Dutch territories.

As a matter of fact, the deportation of the Dutch workers was organized by ordinances of the Reich Commissioner. They established all the more the responsibility of the defendant, who in his quality as Reich Commissioner, derived his powers directly from the Führer.

The Defendant Seyss-Inquart introduced the compulsory labor service in the Netherlands by an ordinance of 28 February 1941, published in the Dutch *Verordnungsblatt* of 1941, Number 42. I have referred to this ordinance as Document Number RF-58 in the course of my explanation and asked the Tribunal to take judicial notice of it.

As in Belgium the compulsory labor service could originally be enforced in the interior of the occupied territories only; but just as in Belgium, it was soon extended in order to permit the deportation of workers to Germany. The extension was put into realization by an ordinance of Seyss-Inquart of 23 March 1942, which appeared in Number 26 of the *Verordnungsblatt*, 1942. I submit it to the Tribunal as Document Number RF-74, and I ask the Tribunal to add it to the Record.

The Defendant Seyss-Inquart has thus paved the way on which the Defendant Sauckel was to be enabled to proceed to action. Sauckel actually utilized all the human potential of the Netherlands. New measures were soon necessary—measures which Seyss-Inquart adopted.

An ordinance dated 6 May 1943, *Verordnungsblatt*, 1943, Page 173, ordered the mobilization of all men from 18 to 35 years of age. I submit this decree to the Tribunal as Document Number RF-75.

Moreover, as soon as 19 February 1943 Seyss-Inquart had issued a regulation which permitted his services to take all measures in the utilization of labor which they considered to be opportune.

This ordinance, which appeared in the *Verordnungsblatt* of 1943, is submitted to the Tribunal as Document Number RF-76.

The extent of deportation from Holland in 1943 is attested to by a letter of 16 June 1943 from Sauckel's representative in the Netherlands. This letter, which bears French Document Number F-664, is submitted to the Tribunal as Exhibit Number RF-77. I quote:

"In conformity with the census decree of 7 May 1943, the 1920 to 1924 classes have been registered on filing cards. Although this involved very much work it was nevertheless possible to send 22,986 workers to the Reich, and in addition the prisoners of war put at our disposal. During the month of June the deficiency of the month of May will be made up.

"These classes include, according to the Statistical Service of the Kingdom of Holland, 80,000 each. It is from these classes that transfers to the Reich have been made so far. Up to 1 June 1943, 446,493 persons have been transferred to the Reich and a number of them have returned from there. The figures as per index are as follows: 1921 class, 43,331; 1922 class, 45,354; 1923 class, 47,593; 1924 class, 45,232.

"As up to 80 percent have been deferred, it is now imperative to begin transporting entire classes to the Reich. The Reich Commissioner has given his agreement to this action. The other authorities involved—of economy, armament, agriculture, and the Armed Forces—pressed by necessity, have given their approval."

At the end of the year 1944, the German authorities increased their pressure on the Netherlands. During that period tens of thousands of persons were arrested within 2 days in Rotterdam. Systematic raids took place in all the larger cities of Holland, sometimes improvised, sometimes after the population had been publicly summoned to appear in designated places. I submit to the Tribunal various proclamations of this kind. They form Document 1162-PS and have already been submitted to the Tribunal by Mr. Dodd. I shall not read them again. I use them in support of my argument and submit them as Exhibit Number RF-78.

These documents do not reveal isolated facts; they show a systematic policy which the defendants were to pursue up to 5 May 1945, when the capitulation of Germany brought liberation to the Netherlands.

I still owe the Tribunal a supplementary explanation. The defendants did not stop at introducing compulsory labor service

in the occupied territories. I have said that they proceeded to criminal coercion in order to ensure that the mobilization of foreign workers was carried out. I am going to prove this fact.

The measures taken by the National Socialist authorities to guarantee the forced enlistment of foreign workers cannot be dissociated from the procedures they applied to ensure the so-called voluntary enlistment. The pressure was more violent, but it sprang from the same spirit. The method was to deceive, and where this proved unsuccessful to use coercion. The defendants very soon realized that no kind of propaganda would lend the cloak of justice to compulsory labor in the eyes of their victims. If they had any doubts in this respect, these would have been dissipated by the reports of the occupation authorities. The latter were unanimous in their reports of the political trouble provoked by this compulsory enlistment and of the resistance encountered by it. That is why the defendants once again used force in their attempt to ensure that the civilian mobilization decreed by them was carried out.

First in line among the coercive measures to which the Germans took recourse, I mention the withholding of the ration cards of the recalcitrants. The Tribunal knows from the circular letter of Dr. Mansfeld, submitted as Exhibit Number RF-26 (Document 1183-PS), that this measure had been proposed ever since January 1942, and will recall that by decree of the Führer of 8 September 1942, which I submitted as Exhibit Number RF-55 (Document 556(2)-PS), this measure was put into effect. This order provided that food and clothing ration cards were not to be issued to persons incapable of proving that they were working, nor to those who refused to do compulsory work.

Hitler's order was put into effect in all occupied territories. In France circulars imposing decrees by the occupation authorities prohibited the renewal of ration cards of those French people who had eluded the census of 16 February 1943. In Belgium the forfeiture of ration certificates was regulated by an order of the military commander. It is the order of 5 March 1943, published in the *Verordnungsblatt* for Belgium, which I submit to the Tribunal as Document Number RF-79.

General Von Falkenhausen, the signatory of this order, admitted its grave significance during the interrogation, which I have submitted to the Tribunal under Document Number RF-15 and to which I refer again. General Von Falkenhausen declared that the Defendant Sauckel was the originator of this order and that he had refused to grant an amnesty proposed by his services. I quote, Page 4 of the French translation, fifth paragraph:

"Q: 'Does the witness remember an order of 5 March 1943, by which those refusing to enter the compulsory labor service had their ration cards withdrawn?'

"A: 'I do not remember. At the time when the order was issued for men from 18 to 50 years old the implementing orders were not given by myself but by my offices, and I am not conversant with the details of the application of reprisals. I was not the executive head of the administration. I was above it.'

"Q: 'But at that time you were informed of the means of pressure and manner of treatment which the authorities thought fit to employ?'

"A: 'I do not wish to deny my responsibility for all that happened. After all, I was aware of many things. I remember in particular the order regarding ration cards, because on various occasions I proposed that an amnesty be declared for persons who were obliged to live illegally and who did not have a ration card.'

"Q: 'To whom was this proposal made?'

"A: 'To Sauckel, with the consent of President Revert.'

"Q: 'What was the attitude taken by Sauckel at that time?'

"A: 'He refused to grant such an amnesty.' "

In Holland, likewise, the renewal of ration certificates which did not bear the stamp of the labor office was prohibited.

The defendants, however, used a method of coercion even more criminal than the forfeiture of ration cards. I refer to the persecution directed against the families of those who refused to do compulsory labor. I call this method criminal, because it is based on the concept of family responsibility which is contrary to the fundamental principles of the penal law of civilized nations. It was, nevertheless, sanctioned by several legislative texts issued or imposed by the National Socialists.

In France, I quote the law of 11 June 1943, which I submit to the Tribunal as Document Number RF-80 with the request that it take judicial notice thereof.

In Belgium, I refer to the order of the military commander of 30 April 1943, which appeared in the *Verordnungsblatt* for Belgium of 6 May 1943, and particularly to Paragraphs 8 and 9. I submit this order to the Tribunal as Document Number RF-81, with the request that it take judicial notice thereof.

Judicial action by the defendants was likewise directed against the employers and against the officials of the employment bureaus. In France the action was initiated by two laws of 1 February 1944.

I emphasize that these laws were issued on the same day as the compulsory labor law, and I affirm that they were imposed at the same time. In support of my statement, I submit the admission of the Defendant Sauckel, in his letter of 25 January 1944, which I read a while ago to the Tribunal under Exhibit Number RF-70 (Document 556(55)-PS). I submit to the Tribunal the laws of 1 February 1944 as Document Number RF-82 with the request that it be added to the Record.

There were still other measures of coercion. One of these, for instance, was the closing of the faculties and schools to defaulting students. It was decreed in Belgium on 28 June 1943; in France, on 15 July 1943. In Holland the students were victims of a systematic deportation in February and March 1943. I quote in this connection a letter of 4 May 1943, which brings proof of the action carried out through Holland towards a systematic deportation. This is Document F-665, which I submit as Exhibit Number RF-83 of my book.

THE PRESIDENT: Perhaps this is a good time to break off.

[A recess was taken.]

M. HERZOG: Mr. President, Your Honors, at the suspension of the session I was about to read to the Tribunal the letter of 4 May 1943, which gives evidence of the action taken in Holland towards a systematic deportation of the students. I quote:

"Subject: Action against students.

"The action will start on Thursday morning. As it is now too late to have this published in the press today, an announcement by the Higher SS and Police Leader will be made over the radio beginning tomorrow at 7 o'clock; it will be published tomorrow in the morning and the evening papers. Besides that, we will follow the directives given in yesterday's telegram."

Following is the text of the proclamation:

"Ordinance on the registration of students."

I will skip the first paragraph and I quote:

"1. All persons of the male sex who have attended a Dutch university or academy during the years 1942-43 and have not yet finished their studies according to the curriculum—referred to below as 'students'—are to report between 1000 and 1500 on 6 May 1943 to the commander of the sector of the SS and the Security Police competent for their respective residence for the purpose of their induction into the compulsory labor service."

I now skip Paragraphs 2 and 3 and quote:

"4. (1) Persons violating this ordinance or trying to circumvent it, particularly such persons who do not comply with their duty to register or either intentionally or through negligence state any false data will be punished by imprisonment and/or unlimited fine, unless other laws providing a more severe penalty are applicable. . . .

"(4) Those exercising paternal authority or guardianship over the students are co-responsible for their reporting as prescribed. They are subjected to the same penalties as the offenders themselves.

"5. This ordinance becomes effective on promulgation." Signed—"The Higher SS and Police Leader with the Reich Commissioner for the Occupied Dutch Territories."

Since no measures whatsoever succeeded in intimidating the workers in the occupied territories, the defendants finally resorted to their police forces to ensure the arrest of those workers destined for deportation to Germany. This intervention by the police had been demanded by the Defendant Sauckel.

I submit two documents in evidence. The first consisted of the minutes of a conference which took place on 4 January 1944 at the headquarters of the Führer. I have just submitted this document to the Tribunal as Exhibit Number RF-68 (Document 1292-PS). I quote, French translation, Page 2, last paragraph; German original, middle of Page 4:

"The Plenipotentiary General for Allocation of Labor (GBA) Sauckel, declared that he would try with fanatical determination to obtain this manpower. Up to now he had always kept his promises regarding the number of workers to be provided; with the best will in the world, however, he was not in a position to make a definite promise for 1944. He would do anything possible to provide the manpower required for 1944. The success would depend mainly on the number of German police put at his disposal. If he had to rely on the indigenous police his project could not be carried out."

I refer now to the statements made by Sauckel at the conference of the central office for the Four Year Plan on 1 March 1944. It is Exhibit Number RF-30 (Document R-124), to which I repeatedly have called the attention of the Tribunal. The passage which I am about to quote has not yet been referred to before the Tribunal. Page 3 of the French translation, German text, from Page 1775 on:

"The term 'S-factory' "—S-Betrieb—"in France is actually nothing else but a protection against Sauckel's grasp. That is how the French look at it, and they certainly cannot be

expected to think differently. They are Frenchmen in the first place, who are faced with a German point of view and German actions different from theirs. It is not up to me to decide whether the protected factories (Schutzbetriebe) are useful and necessary. I have described the situation only from my point of view. Nevertheless, I still hope to succeed eventually by using my old organization of agents on the one hand and, on the other hand, by those measures which I have fortunately been able to wrest from the French Government.

"In the course of negotiations lasting 5 to 6 hours I wrested from M. Laval the concession that the death sentence may be imposed on officials who sabotage the recruitment of labor and other measures. Believe me, it was very difficult. I had to fight hard to succeed, but I did succeed. And I am requesting, especially of the Armed Forces that, in case the French Government does not really put its mind to it, most drastic action be taken now by the Germans in France. Please do not resent my following remark: Several times, when in company of my assistants, I have faced situations in France which caused me to ask, 'Is there no respect in France for the German lieutenant and his 10 men?' For months on end everything I said was paralyzed by the reply, 'What do you want, Mr. Gauleiter? Don't you know that we have no police forces at our disposal? We are powerless in France.'

"This was the reply given over and over again. How, in the face of these facts, am I to achieve labor recruitment in France? The German authorities must cooperate; and if the French, despite all their promises, do not remedy the situation, we Germans must make an example of one case and, on the provisions of this law, put some prefect or mayor against the wall if he does not cooperate, else not a single Frenchman will go to Germany."

By such means the deportation of workers to Germany finally was achieved, by arresting them, and by the threat of reprisals. It was a logical consequence of the National Socialist system that the policy of recruiting foreign workers was accomplished by police terror.

I have told the Tribunal that the resistance offered by the prisoners of war and by the workers of the occupied territories against the activities of the defendants, which were in turn insidious and brutal, wrecked the plan for the recruitment of foreign workers. The Defendant Sauckel encountered the greatest difficulty in carrying out the programs which he had persuaded Hitler and the Defendants Göring, Speer, and Funk to accept.

From this it does not follow that Nazi Germany did not succeed in carrying out mass deportations of foreign workers. The number of native workers from the occupied territories of Western Europe who were deported into Germany is very high. More numerous still were those workers compelled to work at home in factories and workyards under the control of the occupation authorities.

I shall give the Tribunal statistical information which will enable it to verify my statements. These statistics are fragmentary. They are excerpts from reports compiled by the governments of the occupied countries after their liberation and from reports sent during the war by the Arbeitseinsatz office to its superiors.

The statistics of Allied origin are incomplete. The records on which they are based have been partially destroyed. On the other hand, the administrations of the occupied territories are in possession of second-hand information only whenever the requisitions of workers were made directly by the occupation authorities. As to the German statistics, they are also incomplete since the Allied authorities have not yet discovered all the records of the enemy.

It is, however, possible to give to the Tribunal an exact evaluation of the extent of the deportations effected by Germany. This evaluation will furnish proof that the violations of international law committed by the defendants did not remain in the tentative stage characterized by a beginning only—though reprehensible as such; they brought about social disorder such as, under penal law, constitutes the perpetration of the crime.

I shall first submit to the Tribunal the statistics furnished by the official reports of the French Government. The French Government's report has been published by the Institute of Market Analysis. It contains numerous statistical tables from which I quote the total figures. The figures are as follows: 738,000 workers were pressed into compulsory labor service in France; 875,952 French workers were deported to German factories; 987,687 prisoners of war were utilized for the Reich war economy. A total of 2,601,639 workers of French citizenship thus were pressed into work serving the war effort of National Socialist Germany.

From the official report of the Belgian Government it appears that 150,000 persons were pressed into compulsory labor; and the report of the Dutch Government gives a figure of 431,400 persons; but it should be noted that this figure does not take into account the systematic raids undertaken during November 1944, nor the deportations carried out in 1945.

I am submitting to the Tribunal exact figures which cover all the stages of the policy of recruiting foreign labor. These figures are taken from the reports of the Defendant Sauckel himself or of

various administrative offices concerned with the deportation of labor. The extent of labor utilized in the occupied territories is demonstrated by the statistics concerning workers who were used in constructing fortifications of the so-called Atlantic Wall as part of the Organization Todt, which I recall was directed by the Defendant Speer after the death of its founder. These statistics are to be found in a teletype message sent to Hitler by the Defendant Sauckel on 17 May 1943. It is Document 556(33)-PS, which I submit to the Tribunal as Exhibit Number RF-84. I quote:

"The Delegate for the Four Year Plan. The Plenipotentiary General for Allocation of Labor, Berlin, to the Führer, headquarters of the Führer.

"My Führer! I beg to submit to you the following figures on the manpower employed in the Todt Organization:

"In addition to the manpower assigned to the entire German industry by the Allocation of Labor since I took office, fresh workers have also been constantly supplied to the Todt Organization. The total figure of the workers employed by the Todt Organization was as follows: End of March 1942, 270,969; end of March 1943, 696,003.

"It should be noted that the Allocation of Labor has with great speed and energy assigned workers preferably to the Todt Organization in the West for the purpose of completing the work on the Atlantic Wall. This is all the more remarkable because in France, Belgium, and Holland. . . ."

I skip a few lines and quote from Page 2:

"Despite the difficulties involved, the manpower strength of the Todt Organization in the West was increased from 66,701 workers at the end of March 1942 to 248,200 workers at the end of March 1943."

The number of foreign workers deported to Germany by 30 September 1941 is furnished by a report which was found in the archives of the OKW. It is Document 1323-PS, which I submit as Exhibit Number RF-85. According to this document, 1,228,686 foreign workers were employed in Germany on 30 September 1941. Of that number 483,842 came from the occupied Western territories. I quote from this document the number of labor deportees by country of origin. I shall confine myself to the columns of interest to the Western states, since the statistics of workers deported from the East of Europe come within the province of my Soviet colleagues:

"Denmark, 63,309; Holland, 134,093; Belgium, 212,903; France, 72,475; Italy, 238,557."

Finally, on 7 July 1944, Sauckel, in one of his last reports, informed the National Socialist Government of the results of his campaign during the first half of 1944. I quote the document, which bears the Number 208-PS and which I submit to the Tribunal as Exhibit Number RF-86. I read from the second page:

"C. The foreigners came from. . . .France except the north, 33,000; Belgium, including the north of France, 16,000; Netherlands, 15,000; Italy, 37,000."

This is the fresh manpower put at the disposal of German industry during the period of 1 January to 30 June 1944.

I have furnished the proof I owed to the Tribunal. The Tribunal will, moreover, remember Sauckel's admission at the 58th conference of the Four Year Plan, which I have read to you previously. Sauckel admitted that there were 5 million foreign workers in Germany, of whom 200,000 were actually volunteers.

The materiality of the crime exposed is at the same time established by the circumstances of its perpetration and by the multitude of the victims affected. To prove the gravity of its effect, I have but to recall the treatment to which foreign workers were subjected in Germany.

German propaganda always claimed that foreign workers deported to Germany were treated on equal basis with German workers: the same living conditions, the same labor contracts, and the same discipline. This contention, as such, is not conclusive. My American colleagues have furnished proof of the blows which the National Socialist conspirators have dealt to the dignity and decency of the life of the German worker. The reality is worse yet. Foreign workers did not enjoy the treatment in Germany to which they were entitled as human beings. I affirm this and I will prove it to the Tribunal.

But before going into that I wish to call the Tribunal's attention to the significance of the new crime which I am denouncing. It does not only make the crime of deportation complete but provides its true meaning also. I said that the policy of the defendants in the occupied territories could be summed up as follows:

Utilization of the productive forces and extermination of the unproductive forces. This is the principle representing one of the favorite concepts of National Socialism, on the basis of which the treatment inflicted on foreign workers by the defendants should be judged. The Germans have exploited the human potential of the occupied countries to the extreme limit of the strength of the individuals concerned. They showed some consideration for foreign workers only insofar as they wished to increase their output. But

as soon as their capacity for work decreased, the foreign workers shared the common lot of deportees.

I shall prove my argument by expounding to the Tribunal the working and living conditions and rules of discipline which were imposed on foreign workers deported to Germany.

I request the Tribunal to charge the Defendant Sauckel with the facts I am going to denounce. He was put in charge of the working conditions for foreign workers, following an agreement to which he freely consented. The text of this agreement, made with Ley, the Chief of the German Labor Front, on 2 June 1943, was published in the *Reichsarbeitsblatt*, 1943, Part I, Page 558. I submitted this to the Tribunal at the beginning of my presentation as Exhibit Number RF-18.

This agreement shows that the treatment of foreign workers was subject to control by the inspection department of the Allocation of Labor (Arbeitseinsatz). The Defendant Sauckel could therefore not ignore the mistreatment to which foreigners were subjected. If not prescribed it was tolerated by him.

The working conditions of workers deported to Germany provided the first evidence of the determination of the defendants to exploit the human potential of the occupied territories to the extreme limit of its strength.

First I call the attention of the Tribunal to the working hours imposed on foreign workers. The working hours were legally set at 54 hours per week by Sauckel's decree of 22 August 1942. Actually, most foreign workers were subjected to still longer working hours. Rush work, which necessitated overtime, was mostly assigned to foreigners. It was not unusual for the latter to be forced to work 11 hours a day, that is, 66 hours a week, provided they had one day off per week.

For this purpose I quote the report of the Minister for Prisoners, Deportees, and Refugees, Document UK-78(3), which I submit as Exhibit Number RF-87. I quote Paragraph 2:

> "Working Hours: The average number of working hours was 11 and sometimes 13 a day in certain factories, for example, Maschinenfabrik, Berlin (31). In Berlin-Spandau, the Alkett factory imposed 10¼ hours work on day shift and 12 hours on night shift. At Königsberg the caterpillar-tread factory, Krupp, imposed 12 hours a day."

The work of foreign workers was remunerated by wages identical with those of the German workers.

I call the attention of the Tribunal to the illusory character of this equality. The policy of freezing wages was a permanent element of the wage and price policy pursued by the National

Socialist Government; consequently, the wages of the workers employed in Germany remained limited. They were, moreover, heavily burdened with impositions and taxes. Finally and above all, they were encroached upon by fines which the German employers had the right to impose upon their workers. These fines could reach the amount of the weekly wage for slight breaches of discipline.

I submit in evidence Document D-182. These are two drafts of speeches to foreign civilian workers. One of them is intended for Russian and Polish workers. I leave this to be dealt with by my Soviet colleagues. I submit the other to the Tribunal as Exhibit Number RF-88, and I quote:

"Draft of an address to foreign civilian workers, 'Maintenance of Labor Discipline,' January 1944.

"I must inform you of the following:

"The increasing lack of punctuality and absenteeism have caused the competent authorities to issue stricter regulations to ensure labor discipline whereby the competence of the employers to impose penalties has been extended. Violations of labor discipline, such as repeated tardiness, being absent without cause or excuse, leaving a job without authorization, will in the future be punished by fines up to the average daily wage. In more serious cases, for example, for repeated absences without cause or excuse, or insubordination, fines up to the average weekly salary will be imposed. In such cases, moreover, the additional ration cards may be taken away for a period up to 4 weeks. . . ."

The precariousness of wages which, after these various cuts, were actually received by the foreign workers did not allow them to raise their standard of living in the places to which they had been deported. I maintain that this standard was insufficient and that the attitude of the Arbeitseinsatz in this matter constitutes a characteristic violation of the elementary principles of the rights of man. I will confirm this by submitting to the Tribunal proof of the inadequacy of food, lodging, and medical care to which the foreign workers were entitled.

The German propaganda services issued, in France, illustrated pamphlets in which the accommodations for foreign workers were represented as being comfortable. It was quite different in reality.

I will not dwell on this point. Mr. Dodd, my American colleague, has already submitted and commented upon Document D-288, an affidavit by Dr. Jäger, chief medical officer in charge of the work camps in the Krupp factories. I will not reread this document to the Tribunal, but I would like to repeat that in this

document Dr. Jäger stated that French workers—prisoners of war working in the Krupp factories—had been billeted for more than half a year in kennels, urinals, unused ovens. The kennels were 3 feet high, 9 feet long, and 6 feet wide, and the men had to sleep there five in a kennel. I submit this document, which is to support my argument, as Exhibit Number RF-89.

To this unsanitary accommodation often inadequate food was added. In this respect I wish to explain the following to the Tribunal:

I do not claim that the foreign workers deported to Germany were systematically exposed to starvation, but I do maintain that the leading principle of National Socialism finds its expression in the food regulations for foreign workers. They were decently fed only insofar as the Allocation of Labor wished to maintain or to increase their capacity for work. They were put on a starvation diet the moment when, for any reason whatsoever, their industrial output diminished. They then entered that category of unproductive forces, which National Socialism sought to destroy.

On 10 September 1942 the Defendant Sauckel declared to the First Congress of the Labor Administration of Greater Germany:

> "Food and remuneration of foreign workers should be in proportion to their output and their good will."

He developed this point of view in documents which I am offering in evidence to the Tribunal.

I refer, in the first place, to the letter from Sauckel to Rosenberg, which is Document 016-PS and which I shall not read since it has already been read to the Tribunal by my American colleagues. I wish, however, to draw the Tribunal's attention to the second paragraph, Page 20, of this document, which concerns the food supply of prisoners of war and foreign workers:

> "All these people must be fed, lodged, and treated in such a way that they may be exploited to the maximum with a minimum of expense."

I ask the Tribunal to remember this formula—the aim to exploit the foreign labor to the maximum at a minimum of expense. It is the same concept which I find in a letter of Sauckel of 14 March 1943 addressed to all Gauleiter. It is Document 633-PS, which I submit to the Tribunal as Exhibit Number RF-90:

> "Subject: Treatment and care of foreign labor.
>
> "Not only our honor and prestige and, still more than that, our National Socialist ideology which is opposed to the methods of plutocrats and Bolshevists, but also cool common sense in the first place demand proper treatment of foreign labor, including even Soviet-Russians. Slaves who are

underfed, diseased, resentful, despairing, and filled with hate, will never yield that maximum of output which they might achieve under normal conditions."

I skip now to the next to the last paragraph:

"But since we will need foreign labor for many years and the possibility of replacing them is very limited I cannot exploit them on a short-term policy nor can I allow wasting of their working capacity."

The criminal concept revealed by these documents is particularly manifest in the establishment of the food sanctions which were inflicted on the deported workers. I refer to Document D-182, which I have just submitted as Exhibit Number RF-88, and I remind the Tribunal that it provides the possibility of inflicting on recalcitrant workers the penalty of a partial suppression of food rations. Moreover, the foreign workers, who were all the more exposed to diseases and epidemics since they were poorly lodged and fed, did not enjoy proper medical care.

I submit in evidence a report made on 15 June 1944 by Dr. Février, head of the health service of the French Delegation with the German Labor Front. It is Document F-536. I submit it as Exhibit Number RF-91, and I quote from the last paragraph at Page 15 of the French original, Page 13 of the German translation:

"At Auschwitz, in a very fine camp of 2,000 workers, we find tubercular people who were recognized as such by the local German doctor of the Arbeitsamt going about freely; but this doctor neglects to repatriate them out of hostile indifference. I am now taking steps to obtain their repatriation.

"In Berlin, in a clean hospital, well lighted and ventilated, where the chief doctor, a German, makes the rounds only once in 3 weeks, and a female Russian doctor every morning distributes uniformly the same calming drops to every patient, I have seen a dozen consumptives, three of them released prisoners. All of them except one have gone beyond the extreme limit at which treatment might still have had some chance of proving effective."

No statistics have been made of foreign workers who died during their deportation. Professor Henri Dessaille, Medical Inspector General of the Labor Ministry, estimates that 25,000 French workers died in Germany during their deportation. But not all of them died of diseases. To slow extermination was added swift extermination in concentration camps.

The disciplinary regime over the foreign workers was, in fact, of a severity contrary to the rights of man. I have already given

some example of penalties to which the deported workers were exposed. There were still more. The workers who were deemed recalcitrant by their supervisors were sent to special reprisal camps, the 'Straflager'; some disappeared in political concentration camps.

I remind the Tribunal that I have already, indirectly, proved this fact. In the course of my presentation I submitted under Exhibit Number RF-44, the ordinance of Sauckel of 29 March 1943 which extends the term of the labor contracts by the length of time which the workers spent in prison or in internment camps.

I will not dwell on this point. Mr. Dodd, my American colleague, has submitted to the Tribunal the documents which prove the shipment of labor deportees to concentration camps. For the rest, I take the liberty of referring the Tribunal to the presentation which M. Dubost will deliver to the Tribunal within a few days.

I emphasize, however, the significance of this persecution of foreign workers. It constitutes the completion of the crime of their deportation and the proof of the coherence of the German policy of extermination.

I have already reported to the Tribunal the events which marked the civilian mobilization of foreign workers for the service of National Socialist Germany. I have shown how the device of compulsory labor was inserted into the general framework of the policy of German domination. I have denounced the methods employed by the defendants to enforce the recruitment of foreign labor. I have emphasized the importance of the deportations undertaken by the Arbeitseinsatz, and I have recalled how the deported workers were treated and ill-treated.

The policy of compulsory labor includes all the infractions under the jurisdiction of the Tribunal: Violation of international conventions, violation of the rights of man, and crimes against common law.

All the defendants bear functional responsibility for these infractions. It was the Reich Cabinet which set up the principles of the policy of enforced recruitment; the High Command of the German Armed Forces carried them out in the workshops of the Wehrmacht, the Navy, and the Air Force; the civilian administrations made use of it to support the German war economy.

I retain more particularly the guilt of certain of the defendants: Göring, Plenipotentiary for the Four Year Plan, coordinated the planning and the execution of the plans for the recruitment of foreign workers. Keitel, Commander-in-Chief of the Armed Forces, counter-signatory of Hitler's decrees, integrated compulsory labor with his manpower policy. Funk, Reich Minister of Economics, and Speer, Minister for Armament and War Production, based their

program of war production on compulsory labor. Sauckel, finally, Plenipotentiary General for Allocation of Labor, proved to be the resolute and fanatical agent—to use his own words—of the policy of compulsory enrollment which, in Holland, was promoted and carried out by Seyss-Inquart.

The Tribunal will appreciate their respective responsibility. I request the Tribunal to condemn the crime of mobilization of foreign workers. I ask the Tribunal to restore the dignity of human labor which the defendants have attempted to degrade.

M. CHARLES GERTHOFFER (Assistant Prosecutor for the French Republic): Mr. President, Your Honors, the French Prosecution is in charge of the part of the Indictment concerning the deeds charged to the defendants which were perpetrated in the countries of Western Europe, as provided for by Article VI of the Charter of 8 August 1945. This text provides for violations of the laws and customs of war which concern persons on the one hand and private and public property on the other hand.

The part of the Indictment concerning persons, that is, ill-treatment inflicted on prisoners of war and on civilians, torture, murder, deportation, as well as devastations not justified by military exigencies, were presented to you and will be presented to you by my colleagues. M. Delpech and I will have the honor to present to you the pillage of private and public property.

The Tribunal will have to be informed of the most arid part of the presentation of the French prosecution. We shall strive to present it as briefly as possible, to shorten the quotation of the numerous documents submitted to the Tribunal, and to avoid, whenever possible, statistical material in order to bring only the principal facts to light. Nevertheless, sometimes we will go into detail in order that the Tribunal may appreciate certain characteristic facts now charged to the defendants, facts which are customarily designated as "economic looting."

Before approaching this subject, I should like to ask the Tribunal's permission to express the gratitude of the Prosecutors of the Economic Section of the French Delegation to their colleagues of the other Allied delegations, and particularly to those of the American section of the economic case who have been kind enough to put at our disposal a great number of German documents discovered by the United States Army, and important material means for their reproduction in a sufficient number of copies.

I shall have the honor of presenting in succession to the Tribunal: 1) General remarks on the economic looting of the occupied countries of Western Europe, 2) the special case of Denmark, 3) that of Norway, 4) that of Holland. My colleague, M. Delpech, will present 5), the part covering Belgium and the Grand

Duchy of Luxembourg. I shall have the honor of presenting to you 6), the part relating to France, and also the conclusion. Finally, a special statement, 7), will be devoted to the works of art.

In the course of the presentation, we shall submit a certain number of documents. We shall quote only the passages which seem to us the most important, when the same document relates to several different questions; we shall quote those excerpts concerning each question when it is presented, indicating each time the reference in the document book, since it is impossible to make known to you all the excerpts at the same time because of the complexity of facts.

In his speeches and in his writings, Hitler never concealed the economic aims of the aggression of which Germany was to become guilty. The theories of race and living space increased the envy of the Germans at the same time as they stimulated their bellicose instincts.

After having conquered Austria and Czechoslovakia without bloodshed, they turned against Poland and prepared to attack the countries of Western Europe, where they hoped to find what was lacking to assure their domination.

This fact is revealed in particular by Document EC-606, discovered by the United States Army, which I submit to the Tribunal as Exhibit Number RF-92. This is the minutes of a conference held by the Defendant Göring on 30 January 1940, with Lieutenant Colonel Conrath and Director Lange of the machine-constructing group attending. The following is the principal passage of the minutes:

"Field Marshal Göring told me at the beginning that he had to inform me of the intentions of the Führer and of the economic measures resulting therefrom.

"He stated: The Führer is firmly convinced that he shall succeed in bringing about a decisive conclusion of the war in 1940 by making a great attack in the West. He assumes that Belgium, Holland, and northern France will fall into our possession; he, the Führer, forms his opinion on the calculation that the industrial areas of Douai and Lens, of Luxembourg, of Longwy and Briey might, as far as raw materials are concerned, replace the deliveries from Sweden.

"Therefore, the Führer has decided, in disregard for the future, to stake fully our reserves of raw materials, at the expense of possible later years of war. The soundness of this resolution is supported with the Führer by the view that the best stocks are not stocks of raw materials but stocks of finished war materials. Moreover, when the aerial war

begins, it must be taken into account that our finishing factories may be destroyed. The Führer is furthermore of the opinion that the maximum output must be achieved in 1940 and consequently that long-range production programs should be put aside in order to accelerate those which can be terminated in 1940."

When the invasion began the countries of Western Europe were glutted with products of every kind; but after 4 years of methodical looting and enslavement of production, these countries are ruined, and their entire population is physically weakened as the result of rigorous restrictions.

To achieve such results, the Germans used every method, particularly violence, trickery, and blackmail.

The purpose of the present statement will be to specify the main spoliations ordered by the German leaders in the countries of Western Europe and to show that they constitute, as far as they are concerned, War Crimes which come under the jurisdiction of the International Military Tribunal for major war criminals.

It is not possible to draw an exact balance sheet of the German looting and of the profit derived by them as the result of the enslavement of production in the occupied countries. On one hand, we do not have enough time; on the other hand, we find ourselves faced with actual impotence resulting from the secret nature of certain operations and the destruction of archives through acts of war or deliberate destruction at the time of the German rout.

Nevertheless, the documents now collected and the information gathered make it possible to give a minimum estimate of the extent of spoliation. However, I shall ask the Tribunal's permission to make three preliminary remarks:

1) The numerous acts of individual looting committed by the Germans will not be referred to by this presentation since they come under the competence of a different jurisdiction.

2) We shall only mention for the Record the incalculable, economic results of German atrocities, for instance, the financial loss experienced by the immediate relatives of breadwinners murdered, or the loss suffered by certain victims of ill-treatment, who are totally or partially, temporarily or permanently, incapacitated for work, or the damage resulting from the destruction of localities or buildings for the purpose of vengeance or intimidation.

3) Finally, gentlemen, we shall not discuss the damage resulting from purely military operations, which cannot be considered as economic results of War Crimes. When damage caused by military operations is referred to, some separate valuation will be necessary.

With the permission of the Tribunal, I shall make a few general remarks on the economic looting of Western European occupied territories. Economic looting is to be understood as the removal of wealth of every kind, as well as the enslavement of the production of the various occupied countries.

To reach such results in countries which were generally highly industrialized and where numerous stocks of manufactured goods and abundant reserves of agricultural products existed, the German venture was faced with real difficulties.

At first, although the Germans had used this procedure to its maximum extent, requisitions were not adequate. In fact, they had to find the opportunities for ferreting out all sorts of things, which were sometimes hidden by the inhabitants, and on the other hand, they had to maintain for their own profit the economic activity of these countries.

The simplest way of becoming masters of the distribution of existing products and of production was to take possession of almost all means of payment and, if necessary, to impose by force their distribution in exchange for products or services, at the same time combating the rise of prices.

Faced with starvation the populations were thus naturally forced to work directly or indirectly for the benefit of Germany.

The first part of this presentation will be divided into five chapters: 1) Seizure of currency by the Germans; 2) sequestering of the production of the occupied territories; 3) individual purchases, which should not be confused with individual acts of looting; 4) the black market, organized by and for the profit of Germany; 5) examination of the question of economic looting from the viewpoint of international law and in particular of the Hague Convention.

First chapter—seizure of currency by the Germans:

To have at their disposal all means of payment, the Germans used almost the same methods in the various occupied countries. First, they took two principal measures. One was the issue of paper money, by ordinance of 9 May 1940, published on Page 69 of the *Verordnungsblatt für die besetzten französischen Gebiete,* official German gazette, which will subsequently be referred to by its official abbreviation VOBIF, which I submit to the Tribunal as Document Number RF-93. This ordinance concerned Denmark and Norway; and on 19 May 1940 was rendered applicable to the occupied territories of Belgium, Holland, Luxembourg, and France.

The Germans proceeded to issue bank notes of the Reichskreditkasse which were legal tender only in the respective occupied countries.

The Germans then took a second measure: The blocking of existing currency within the occupied countries as a result of the ordinance of 10 May 1940, published in VOBIF, Page 58, which I submit as Document Number RF-94. In regard to Holland these ordinances are those of 24 June, 14 August, 16 August, and 18 September 1940, which are submitted as Document Numbers RF-95, 96, 97, and 98. In regard to Belgium these ordinances are those of 17 June and 22 July 1940, submitted as Document Numbers RF-99 and 100.

These measures, notably the issuing of paper money, left exclusively to the whim of the Germans without any possible control on the part of the financial administrations of the occupied countries, were to serve, as we shall see, as powerful means of pressure to impose the payment of enormous war tributes under the pretext of maintaining occupation troops as well as alleged payment agreements known as "clearing," which functioned almost exclusively to the benefit of the occupying power.

The Germans thus procured for themselves, under false pretenses, means of payment from which they profited by realizing considerable sums for their sole benefit.

All agricultural and industrial products, raw materials, goods of every kind, or services, for which Germany apparently made regular payment by means of either notes of the Reichskreditkasse or by so-called clearing agreements or by war tributes known as indemnities for the maintenance of occupation troops, were exacted with full knowledge that no redemption would be forthcoming. Thus, we can be sure that, as a rule, such regulations were purely fictitious and were the most regularly used fraudulent procedure to effect the economic looting of the occupied countries of Western Europe.

These questions will be examined in a more exact manner later on. I shall limit myself for the moment to pointing out to the Tribunal that to effect the economic looting of the occupied countries with their own money, it was necessary that this money should preserve an appreciable purchasing power. Therefore, the efforts of the Germans were directed toward stabilization of prices. A severe regulation prohibiting rises in prices was subsequently promulgated by several decrees—VOBIF, Pages 8, 60, and 535, submitted as Document Number RF-101. Nevertheless, the application of such measures could not prevent economic laws from

playing their part. The payment of excessive tributes, considering the resources of the invaded countries, could not but have as their primary result a continuous rise of prices. The leaders of the Reich were perfectly aware of the situation and watched very attentively the rise in prices, which they were attempting to moderate.

This we know principally from the secret reports of Hemmen, President of the Armistice Commission for German Economic Questions, which we will discuss when we examine the particular case of France.

Chapter 2—Sequestering of the production of the occupied countries:

When the Germans invaded the countries of Western Europe great disorder was created as the result. The population fled before the advance of the enemy. Industries were at a standstill. German troops guarded the factories and prevented anyone from entering.

I am not able to give you a list of the enterprises affected by this situation, since there was almost no exception.

Nevertheless, as an example, we will present to the Tribunal the original of one of the numerous posters exhibited in industrial plants in France. I submit this poster as Document Number RF-102. It is dated Paris, 28 June 1940. One text is in German, and the other is in French. Here is the French text:

> "By order of General Field Marshal Göring of 28 June 1940, the Generalluftzeugmeister took possession of this factory as trustee. Only persons having special permits from the Generalluftzeugmeister, Verbindungsstelle, Paris, may enter."

Hardly had the factories been occupied by the military when German technicians, at the heel of the troops, proceeded methodically to remove the best machines.

It is revealed by a secret report of Colonel Hedler, dated December 1940 and emanating from the Economic Section of the OKW, Pages 77 and 78, that the removal of the best machines from the occupied territories was to be organized, in spite of the terms of Article 53 of the Hague Convention.

This document is submitted as Exhibit Number RF-103 (Document EC-84).

On the other hand, immediately after the invasion, the working population, their resources being exhausted, naturally gravitated around these factories in the hope of securing their means of subsistence. Problems of an identical nature arose in all the occupied countries: to stop the looting of machinery, which was taking place at an alarming rate; and to keep the workers employed.

The Germans for their part forced the factories to resume work under the pretext of assuring subsistence to the population. The ordinance of 20 May 1940, published in the VOBIF, Page 31, which we submit as Document Number RF-104, applicable to the Netherlands, Belgium, Luxembourg, and France, orders that work should be resumed in all enterprises and industries of food supply and agriculture. The same text provided for the appointment of temporary administrators in case of absence of the directors or in other cases of emergency.

THE PRESIDENT: Are there any objections to breaking off?

[The Tribunal adjourned until 21 January 1946 at 1000 hours.]

THIRTY-NINTH DAY

Monday, 21 January 1946

Morning Session

M. GERTHOFFER: Mr. President, Your Honors, at the end of the last session I had the honor of beginning the account of the French Prosecution on the economic pillage. In the first chapter I had indicated to you succinctly how the Germans had become masters of the means of payment in the occupied countries by imposing war tributes under the pretext of maintaining their army of occupation and by imposing so-called clearing agreements, functioning to their benefit almost exclusively.

In a second chapter, entitled "Sequestering of Production in the Occupied Territories," I had the honor of expounding to you that, after the invasion, the factories were under military guard and that German technicians proceeded to transfer the best machines to the Reich; that the working population, having come to the end of their resources, grouped themselves around the factories to ask for subsidies; and, finally, that the Germans had ordered the resumption of work and had reserved for themselves the right to designate provisional administrators to direct the enterprises.

At the same time, the Germans exercised pressure over the rulers of the occupied countries and over the industrialists to bring the factories back to productivity. In certain cases they themselves placed provisional German administrators in charge and insinuated that the factories would be utilized for the needs of the occupied populations.

On the whole, to avoid unemployment and to maintain their means of production, the industrialists, little by little, resumed their work, endeavoring to specialize in the manufacture of objects destined for the civilian populations. Resorting to various means of pressure, the Germans imposed the manufacture of defensive armaments and then progressively of offensive armaments. They requisitioned certain enterprises, shut down those which they did not consider essential, distributed the raw materials themselves, and placed controllers in the factories.

The German control and seizure continually expanded in conformity with secret directives given by the Defendant Göring himself, as can be seen in a document dated 2 August 1940, discovered by the Army of the United States, which bears the Document Number EC-137, and which I place before the Tribunal as

Exhibit Number RF-105. This is the essential passage of the document:

"The extension of the German influence over foreign enterprises is an objective of German political economy. It is not yet possible to determine whether and to what extent the peace treaty will effect the surrender of shares. It is now, however, that every opportunity should be used for German economy, in time of war, to obtain access to material of interest to the economy in occupied territories and to prevent removals that might hinder the realization of the above-mentioned aim...."

I stop this quotation here. After having had knowledge of such a document, there can be no further doubt about the intentions of the German rulers. The proof of the putting into execution of such a plan is shown in a document which will be read when the particular case of France will be dealt with in the course of this exposé.

The Tribunal will be informed about a study of a certain Michel, Chief of the Administrative General Staff on Economic Questions, deputy to the German commanding officer in France, which brings out the extent of the dictatorship of the Reich over the occupied countries in economic matters. The control of the enterprises in occupied countries was assured by civil or military officials who were on the spot and also, later on, by similar German enterprises, which had become their "Paten-Firma."

To give an example of this economic domination, here are the orders received by an important French company. This involves the Thomson-Houston Company, and I present a letter to the Tribunal under Document Number RF-106 in the French documentation, which is addressed to this establishment. It is dated Paris, 8 October 1943.

"Société des Procédés Thomson-Houston, 173 Boulevard Haussmann, Paris.

"You are fully responsible for the punctual, careful, and reasonable filling of the German orders which are passed to you, both as regards the giver of the order and my office, which is the competent agency for all orders given to France.

"To facilitate for you the execution of your obligations, the firm of the Allgemeine Elektricitäts Gesellschaft, Berlin (NW 40), Friederich-Karl-Ufer 2-4, is designated by me as the 'Paten-Firma.' I attach the greatest importance to close collaboration on technical matters with the above-mentioned firm. The Paten-Firma will have the following functions:

"1) To co-operate in the establishment of your production plan to utilize your capacities;

"2) To be at your disposal for all technical advice which you may need, and to exchange information with you;

"3) To serve as an intermediary, if need be, for negotiations with German authorities;

"4) To keep me informed as to anything that might occur which might prevent or limit the fulfillment of your obligations.

"In view of assuring these tasks, the Paten-Firma is authorized to delegate a Firmenbeauftragter to your firm, and when necessary, technical engineers from other German firms who may have handed you important orders.

"In order to permit the Paten-Firma to accomplish its task it will be necessary to give the firm or its Firmenbeauftragter the necessary information on everything that relates to the German orders and to their execution:

"1) By placing at its disposal your correspondence with your supply houses and with your subcontractors;

"2) By informing it now of the extent to which the capacities of your factories are being utilized and permitting it to check on the production;

"3) By letting it take part in your conferences and see your correspondence with the German authorities.

"It is your duty to inform the Paten-Firma or their Firmenbeauftragter immediately about any orders which you may receive."

This is the end of the quotation.

Almost all the important enterprises in the occupied territories were thus placed under the control of German firms, with the double aim of favoring the Reich's war effort and of achieving by progressive absorption an economic preponderance in Europe, even in case of a peace by compromise.

In the agricultural sphere the Germans used similar means of pressure. They made wholesale requisitions of products, leaving the population with quantities clearly insufficient to assure their subsistence.

I now take up the third chapter devoted to individual purchases by the German military or civilian forces in the occupied countries.

If the present statement cannot take up individual acts of pillage or the numerous thefts committed in the occupied countries, it is important nevertheless to mention the individual purchases, these having been organized methodically by the German rulers to benefit their own nationals.

At the beginning of the occupation the soldiers or civilians effected purchases by means of vouchers of doubtful authenticity

which had been handed them by their superiors. Soon, however, the Germans had at their disposal a sufficient quantity of money to allow them to purchase without any kind of rationing, or by means of special vouchers, considerable quantities of agricultural produce or of objects of all kinds, notably textiles, shoes, furs, leather goods, *et cetera*. Thus, for instance, certain shoe stores were obliged to sell every week, in exchange for special German vouchers, 300 pairs of men's, women's, or children's shoes for town wear.

This is indicated in an important report of the French economic control, to which I will have occasion to refer several times in the course of this presentation and which I submit to the Tribunal under Document Number RF-107.

The individual purchases which constitute a form of economic pillage were, I repeat, not only authorized but organized by the German rulers. In fact, when the Germans returned to their country they were encumbered by voluminous baggage. A postal parcel service had been created by the Germans for the benefit of their nationals living in the occupied countries. The objects were wrapped in a special kind of paper and provided with seals that enabled their entry, duty free, into Germany.

In order to get an idea of the volume of individual purchases, it is important to refer to the declarations of one Murdel, ex-director of the Reichskreditkasse at present detained in Paris, who was heard before an examining magistrate of the Cour de Justice de la Seine on 29 October 1945. This is the declaration made by Murdel on the subject of individual purchases, and I submit it in evidence as Document Number RF-108.

The judge asked Murdel the following question:

"What were the needs of the army of occupation? What purchases did you have to make on its account?"

Murdel answered:

"It is impossible for me to answer the first part of the question. I had tried during the occupation to obtain information on this point, but it was objected that this was a military secret which I had no right to know. What I can tell you is that we settled the pay of the troops and that a private earned from 50 to 60 marks, a noncommissioned officer 50 percent more, and an officer considerably more, naturally. I have no idea what forces the occupation army may have included, as these forces were extremely variable."

I skip a few lines to make this shorter. Murdel adds:

"Apart from this, every soldier on leave returning from Germany had the right to bring back with him a certain number of marks (50). The same was the case for any German soldier who was stationed for the first time in

France. We exchanged the marks into French francs. I value the total of the sum that we paid out each month in this way at 5,000 million francs."

One may thus estimate at about 250,000 million francs, at least, the individual expense incurred in France by the Germans, of which amount the greater part was used for the purchase of products and objects sent to Germany, to the detriment of the French population.

To show the size of these costs, I would add that the amount of 5,000 million francs a month, in other words 60,000 million francs a year, is greater than the budget receipts of the French State in 1938, for these were only 54,000 million francs.

After having viewed the individual purchases, I shall enter upon a fourth chapter devoted to the organization of the black market by the Germans in the occupied territories. The population of the occupied countries had been subjected to a severe rationing of products of all kinds. They had been left only obviously insufficient quantities for their own vital needs.

These regulations made available a large quantity of the stock production which the Germans seized by means of operations that were, to all appearances, regular: requisitions, purchases by official services, individual purchases, or those in exchange for vouchers of German priority. We have just seen that these purchases represented for France, alone, an average of 5,000 million francs per month.

But such regulations produced, as a corollary, a depletion of merchandise and the concealment of products with the aim of keeping them from the Germans. This state of affairs gave birth, in the occupied countries, to what was called the black market, that is to say, clandestine purchases made in violation of regulations on rationing.

The Germans themselves were not slow in proceeding, to an ever greater extent, to purchase on the black market, mostly through agents and sub-agents, recruited among the most doubtful elements of the population, whose work was to find out where these products could be found.

These agents, compromised by violations of the legislation on rationing which they had committed, enjoyed absolute immunity; but they were constantly under the threat of denunciation on the part of their German employers in case they should slow up or stop their activity. Often these agents also fulfilled functions for the Gestapo and were paid by commissions, which they obtained in black market transactions.

The different German organizations in the occupied countries fell into the habit of making clandestine purchases that became increasingly important in volume. Indeed, they began to compete among themselves for this merchandise, the chief result of which

was to increase the prices, thus threatening to bring about inflation. The Germans, while they continued to profit by the clandestine purchases, were anxious that the money which they used should maintain as high a value as possible.

To obviate such a situation, the rulers of the Reich decided in June 1942 to organize purchases on the black market methodically. Thus the Defendant Göring, the Delegate of the Four Year Plan, gave to Colonel Veltjens, on 13 June 1942, the mission of centralizing the structure of the black market in the occupied countries. This fact emerges from several documents discovered by the Army of the United States, of which I submit the first to you as Document Number RF-109. It is the nomination of Colonel Veltjens, signed by the Defendant Göring himself. I do not want to take up the time of the Tribunal in giving a complete reading of these documents. I think that they cannot be contested, but if this should occur later, I will reserve for myself the privilege of reading them later, unless the Tribunal would prefer me to read them immediately.

THE PRESIDENT: I am afraid we must adhere to our ruling. The documents which we cannot take judicial notice of must be read if they are to be put in evidence. You need only read the portions of the document which you require to put in evidence—not necessarily the formal parts, but the substantial parts which you require for the purpose of your proof.

M. GERTHOFFER: This is the letter of 13 June 1942, signed by the Defendant Göring.

> "Owing to the simultaneous purchases of goods by the different branches of the Wehrmacht and other organizations on the so-called black market, a situation has developed in some occupied territories which hampers the methodical exploitation of these countries for the needs of German war economy, is also harmful to German prestige, and endangers the discipline necessary in the military and civilian administration. This deplorable state of things can no longer be tolerated. I therefore charge you to regularize these commercial transactions in agreement with the services that are involved and, particularly, with the chiefs of the administration of the occupied territories. In principle, commercial transactions in the occupied territories that are made outside the framework of the normal provisioning, or constituting a violation of price regulations, must be limited to special cases and can be carried out only with your previously given assent. I approve your proposal that only to trading companies controlled by the Reich should be assigned the handling of these goods, in the first place the 'Roges.'

"I beg you to submit, at the earliest possible date, a detailed plan of operation for starting your activity in Holland, Belgium, France, and Serbia. (In Serbia it is Consul General Neuhausen who is to be in charge.) This plan must include the seizure of port installations and machinery and tools of enterprises to be closed down in the occupied territories. As to the results of your work, I beg you to submit a report to me every month through my representative; the first to be sent on 1 July 1942.

"If necessary, the Central Planning Board will decide as to the distribution of merchandise thus purchased."—Signed—"Göring."

Thereupon, on 4 September 1942, the Defendant Göring had given orders for the complete collection of all merchandise of use, even if signs of inflation should result from this act, in the occupied territories. This is shown by a report signed "Wiehl," concerning the utilization of funds derived from occupation costs. I submit this to the Tribunal as Exhibit Number RF-110 (Document Number 1766-PS).

Shortly after, on 4 October 1942, the Defendant Göring made a speech on the occasion of the Harvest Festival, a speech that is reported in *Das Archiv* of October 1942, Number 103, Page 645. In this speech the Defendant Göring stated implicitly that he meant purchases on the black market in the occupied countries to continue for the benefit of the German population. I submit a copy of this article as Document Number RF-111 and I quote from it the following passage:

"I have examined with very special care the situation in the occupied countries. I have seen how the people lived in Holland, in Belgium, in France, in Norway, in Poland, and wherever else we set foot. I have noticed that although very often their propaganda speaks officially of the difficulty of their food situation, in point of fact this is far from being the case. Of course everywhere, even in France, the system of ration cards has been introduced; but what is obtained on these ration cards is but a supplement, and people live normally on illegal commerce.

"The recognition of this has caused me to make a firm decision, creating a principle which must be rigidly adhered to. The German people must be considered before all others in the battle against hunger and in the problem of food supply. It is my desire that the population of the territories which have been conquered by us and taken under our protection shall not suffer from hunger. If, however, through enemy measures difficulties of food supply should arise, then

all must know that if there is to be hunger anywhere it shall in no case be in Germany . . . ."

The United States Army has discovered a secret report, made on 15 January 1943, by Colonel Veltjens, in which he gives an account of his activity over a period of 6 months to the Defendant Göring. This is Document Number 1765-PS, which I submit now to the Tribunal as Exhibit Number RF-112. It is not possible for me to give a complete reading of this report. I shall simply read certain passages of it.

In the first part of his report Veltjens explains the reasons for the rise of the black market in these terms:

"1) The reduction in merchandise as a result of the regulations and rationing . . . .

"2) The impossibility of stabilizing prices . . . .

"3) The impossibility of price control on German lines owing to lack of personnel in the German control organizations.

"4) The neglect of practical support for counter-measures on the part of the local administrative authorities, especially in France.

"5) The half-hearted penal justice of the local judiciary authorities.

"6) The lack of discipline of the civilian population . . . ."

Then under the same number 6), a little further, Veltjens indicates:

"The activity of the German services on the black market grew little by little to such an extent that more and more unbearable situations arose. It was known that the black market operators offered their merchandise to several bureaus at the same time and that it was the one which gave the highest price who obtained the merchandise. Thus, the different German formations not only vied with each other in obtaining the merchandise, but also they caused the prices to rise."

Further on in his report, Veltjens indicates that he has assumed the direction of the service created by the Delegate for the Four Year Plan in these terms:

"Finally, in June 1942, in agreement with all the central services, the delegates for the special missions (B. f. S.) were charged with taking in hand the seizure and the central control of the black market. Thus, for the first time, a necessary preliminary condition was created for effectively dealing with the problem of the black market."

In the second part of his report, Veltjens explains the advantages of the organization in charge of which he was placed and he writes, among other things:

"It has been stated that purchases on the black market in their present volume would become in the long run too much for the budget of the Reich. In answer to this it must be pointed out that the greater part of the purchases were made in France and were financed by occupation costs. Out of a total of purchases amounting to 1,107,792,819 RM, the sum of 929,100,000 RM was charged to the French for occupation costs so that the Reich budget was not involved for that amount."

After having indicated the inconveniences of the black market, Veltjens concludes:

"In recapitulating"—writes Veltjens—"it must be stated that, in view of the supply situation in the Reich, now as before we cannot do without black market purchases as long as there are still hidden stocks which are important for carrying on the war. To this vital interest all other considerations must be subordinated."

In a third part of this same report, Veltjens deals with the technical organization of his offices. Here are some interesting passages:

"The general direction and supervision of the purchases is the task assigned to the control services which have been newly created for this purpose, as follows:

"a) Supervisory service in France, with headquarters in Paris;

"b) supervisory service in Belgium and the North of France, with headquarters in Brussels;

"c) supervisory service in Belgium and in the North of France, auxiliary service Lille, with headquarters in Lille;

"d) supervisory service in Holland with headquarters in The Hague;

"e) supervisory service in Serbia with headquarters in Belgrade."

Then Veltjens tells us that purchases themselves were carried out by a restricted number of licensed purchasing organizations, that is, 11 for France, 6 for Belgium, 6 for Holland, 3 for Serbia.

"So"—he writes—"all the purchases are subject to the central control of the delegate for the special missions."

Further on Veltjens adds:

"The financing of the purchases and the transport of merchandise are to be carried out by the Reich-owned Roges m. b. H. The merchandise is then to be distributed to the purchasers in the Reich by Roges in accordance with instructions from the Central Planning Board, or departments appointed by the Central Planning Board and in order of urgency."

In the fourth section of his report Veltjens gives the volume of the operations carried out up to the date of 30 November 1942, that is to say, in less than 5 months, as his organization had not begun its activity before 1 July 1942. Here are the figures that Veltjens gives:

"The volume of purchases made (up to 30 November 1942):

"(a) Since the inauguration of the purchases directed by the German commanders or the Reich Commissioner, and of the directed distribution of merchandise in the Reich, there has been purchased a total of 1,107,792,818.64 Reichsmark: In France a total amount of 929,100,000 Reichsmark; in Belgium 103,881,929 Reichsmark; in Holland 73,685,162.64 Reichsmark; and in Serbia 1,125,727 Reichsmark."

Veltjens adds:

"The payment in France is made from the account of the occupation costs, and in the other countries by means of clearing."

Then Veltjens gives a table of merchandise purchased in this way over the period of these 5 months. I shall simply give a summary to the Tribunal:

"1) Metals, 66,202 tons valued at 273,078,287 Reichsmark; 2) textiles, a total value of 439,040,000 Reichsmark; 3) leather, skins, and hides to a total value of 120,754,000 Reichsmark.

Veltjens adds:

"Further purchases comprised: Industrial oils and fats, edible oils and fats, wool, household articles, mess articles, wines and spirits, engineering equipment, medical articles, sacks, *et cetera.*"

Veltjens then gives a table of the increase in prices during these 5 months. Then he states the principle that the black market must be utilized solely to the benefit of Germany and be severely repressed when it is utilized by the populations of the occupied countries. On this subject he actually writes:

"1. Extension of price control. As an increase of the personnel of the German controlling offices may not be possible, or may be possible only to a limited extent, it will be necessary to obtain from the local administration authorities greater activity in this respect.

"2. Application of severe penalties, on German lines, for violations of regulations. This is the only means of remedying the lack of discipline among the civilian populations, arising from their individual and liberal ideas. A check of the sentences that have been passed by the local tribunals is to be recommended.

"3. The promise of rewards for denouncing violations of the rationing regulations, equivalent to a high percentage of the value of the goods seized on account of the denunciation.

"4. The hiring of informers and of agents provocateurs.

"Further to hinder illegal production:

"5. Closing of all enterprises that are not working for the war industry.

"6. Closing or merging of enterprises whose capacity or production is being only partly exploited.

"7. Closer control of the productivity of factories.

"8. Close examination of the quantity of raw materials allotted for the German orders placed in France.

"9. A policy of prices which affords the enterprises adequate profit and thus guarantees their means of existence."

Examining the demands of the rulers of the occupied countries with relation to the German purchases on the black market, Veltjens writes:

"Moreover, lately the French and Belgian economic and government circles, among others the Chief of the French Government himself, have considered it necessary to complain about the organized German buying. In response to remonstrations of this kind, it should be pointed out—in addition to various other arguments—that on the part of the Germans, too, there is naturally the greatest interest in the disappearance of the black market. But the chief responsibility for its existence rests with the government authorities themselves for their incompetence regarding price control and their negligence in meting out just punishment, whereby lack of discipline among their own population is encouraged."

The Tribunal will allow me to stress the value of the argument developed by Veltjens by reminding it that the Germans were the principal purchasers on the black market, and that their agents enjoyed absolute immunity.

Finally, speaking of the machinery in the factories, Veltjens writes in his report:

"Another order of the delegate for the special missions concerns seizure of the machinery of closed factories. It is an established fact that great capacities, particularly of machine tools, are not being utilized at present, while at home they are urgently needed for armament production. After an agreement by the delegate of special missions, the military commander, and the plenipotentiary for machine production, there has been created in France, at the armament inspection

office, an office for the distribution of machines (Maschinenausgleichstelle).

"The creation of Maschinenausgleichstellen in Belgium and Holland is pending. One of the main difficulties, in this field, is to overcome the resistance of the owners of the factories, as well as that of the local government offices of the occupied territories.

"The occupation authorities will have to use every means to break this resistance."

In conclusion, Veltjens alludes in his report to the Roges company, which was a special organization for the transport to Germany of the booty captured in the occupied countries, and more particularly, of products acquired by operations on the black market. One of the directors of this organization, called Ranis, was interrogated on 1 November 1945, and declared in substance that the Roges company had begun its activity in February 1941, succeeding another organization. On the whole he confirms the facts that are reported in Veltjens' report. I shall therefore simply submit a copy of his interrogation to the Tribunal under Document Number RF-113.

The scope of the operations on the black market is thus established by German documents which cannot be contested by the opposite side. I beg to point out to you that these documents prove that within 5 months, in three countries, these operations amount to the sum of 1,107,792,818 Reichsmark. We shall come back to certain details when examining the special situation of certain countries. However, it is necessary for me to indicate the reasons why the Defendant Göring finally came to decide that the black market operations should be suspended.

Indeed, on 15 March 1943, under the pretext of avoiding the risk of inflation in the occupied countries, Göring decided that black market purchases be suspended. We have just seen that the Defendant Göring worried little about the fate of the population of the occupied countries, since he had decided that the black market purchases were to continue even at the risk of inflation.

The true reason is the following: While the official German organizations were buying at prices which were strictly fixed by them, the clandestine organizations were accepting much higher prices. The merchandise was therefore always gravitating to the black market, to the detriment of the official market; and clandestine production in the end absorbed the normal production.

Finally it must be added that the corruption resulting from such practices in certain circles of the German Armed Forces became disquieting to the German leaders. The black market was therefore suppressed officially on 15 March 1943, but some purchasing bureaus

continued their clandestine activities until the time of liberation but on a much smaller scale than before 15 March 1943.

I cite a passage of the report of the French Economic Control which I have just put into evidence as Document Number RF-107 and which gives an idea of the disorder that was created by the German actions and which shows the reasons why the Reich authorities officially suspended the black market purchases—Page 21 of the French text:

"That was the time when champagne, cognac, and benedictine were handled by lots of 10,000 to 50,000 bottles and *pate de foie gras* by the ton! From the very beginning the general corruption had affected a great number of the Wehrmacht officers, attracted by the sumptuous life which surrounded them. It penetrated so far into the German military circles that, from the lower mess sergeant up to the superior officer, each one was implicated with the worst traffickers, demanding commissions on all the deals. In a clandestine sale of wool thread the authorities found themselves face to face with a general of the Air Force."

Around them soon flocked all the bad elements of France, swindlers and other habitual criminals. Then came a crowd of all the customary trade traffickers, brokers, and out-of-work agents, generally unimportant middlemen.

It is understood that in such a circle, composed of unknown and elusive people, the black market deals which were transacted without invoices and in cash, and without written receipts, except those of the German offices, cannot today be easily disclosed and evaluated.

I resume the quotation at Page 22:

"Originating in the course of the year 1941, the commercial agitation of these Parisian purchasing bureaus continued in this manner for about 20 months. But, after having attained its peak at the end of 1942, this activity came to an abrupt end in March 1943, a victim of its own excesses.

"Actually, during the entire occupation production prices were strictly limited by the French authorities and even more so by the German economic services which were systematically opposed to any increase in prices and anxious, above all, to maintain large purchasing power for the French money at their disposal.

"But, since the supplies delivered to the enemy under contract were being paid for at prices hardly better than the legal ones, the clandestine purchasing agencies accepted at the same time rates several times higher for the same products.

"So the conveying of merchandise to the German black market increased more and more, while the secret production of goods to be forwarded through these dark channels increased. The disorder became rapidly such that, in certain branches of industry, deliveries according to contract could not be carried out except with great delay, in spite of the menacing protests of the German authorities.

"Completely aghast, the French Ministry of Industrial Production had to inform the German authorities that the national production would soon no longer be able to meet its obligations.

"This obvious situation, together with the necessity of putting an end to the incredible corruption brought about by the black market in the Wehrmacht, led the Reich Government, if not totally to suppress the black market, at least to consider closing the Paris purchasing bureaus.

"This measure was made effective 13 March 1943 according to an agreement between Bichelonne and General Michel.

"However"—and this is very significant—"the German economic services did not fail to ask in compensation for a considerable rise in the quotas fixed under the agreements. Thus for the Kehrl plan alone this rise amounted to 6,000 tons of textiles.

"Only a few bureaus were able to carry on their activities until the liberation, either by endeavoring to execute their purchases through Roges (D'Humières, Economic Union, *et cetera*), or collaborating with military authorities buying supplies and with the bureaus of the German Air force and the Navy."

THE PRESIDENT: We will adjourn for 10 minutes.

[A recess was taken.]

M. GERTHOFFER: In the course of my explanations I shall come back to the case of each particular country, concerning the black market operations, in order to show their extent. But I think that, just now, it is established by the Veltjens report, as well as by the passages from the French Economic Control report which I had the honor to read to the Tribunal, that the black market was organized by the leaders of the Reich, and especially by the Defendant Göring.

And to finish the general observations concerning economic plundering, I beg the Tribunal's permission to give a few explanations from the legal point of view. That is the subject of Chapter 5 of this first part.

From a legal point of view it is not contestable that organized plundering of the countries invaded by Germany is prohibited by the International Hague Convention, signed by Germany and deliberately violated by her, even though her leaders never failed to invoke this Convention every time they tried to benefit by it.

Section III of the Hague Convention, entitled "The Military Authority over the Territories of the Enemy State," relates to economic questions. These clauses are very clear and need not be discussed. If the Tribunal will allow me to recall them in reading, here is Section III of the Hague Convention which I put into the document book as Document Number RF-114, and which is entitled, "The Military Authority over the Territories of the Enemy State":

"Article 42: A territory is considered occupied when it is placed actually under the authority of the hostile army. The occupation extends only to the territories where this authority has been established and can be exercised.

"Article 43: The authority of the legitimate power having in fact passed into the hands of the occupant, the latter . . ."

THE PRESIDENT: I think we can take judicial notice of these articles of the Convention.

M. GERTHOFFER: I shall therefore not read this article, since the Tribunal knows the Convention, and shall simply limit myself to certain juridical remarks.

These texts of the Hague Convention show in a very clear way that the Germans could seize in occupied countries only what was necessary for the maintenance of troops indispensable in the occupation of the territories. All items which were levied beyond these limits were in violation of the texts which you know, and consequently these acts were acts of plundering.

Counsel for the Defense may contend that all these prescriptions must be put aside, because Germany had set herself the goal of continuing the war against Britain, the U.S.S.R., and the United States of America. The Defense may claim that, because of this, Germany was in a state of need and had to counter the prescriptions of the Hague Convention, trying to interpret the Article 23 G as allowing destruction or seizure even of private property.

I shall immediately answer that this text does not lay down rules relating to the conduct of the occupant in enemy territory. These last prescriptions are contained, I repeat, in Articles 42 to 56, but they referred to the conduct which the belligerents must observe in the course of the combat.

The words "to seize" in the sentence, " . . .to seize enemy property except in cases where . . . these seizures are absolutely demanded by military necessity," mean—and there can be no discussion as to

translation because actually the French text is binding—the words "to seize" mean not to appropriate a thing, but to put it under the protection of the law with a view to leaving it unused, in the state in which it was found, and keeping it for its true owner or for whoever can show right to it. Such a seizure permits the military authority, as long as the action lasts, to prevent the owner from using the property against its troops, but it does not authorize the military authority in any case to appropriate it for itself.

Acts of economic plunder are all contrary to the principles of international law and furthermore are formally provided for by Article 6b of the Charter of the International Military Tribunal of August 1945.

These constant violations of the Hague Convention had the result of enriching Germany and permitted her to continue the war against Britain, the Soviet Union, and the United States, while they ruined the invaded countries, the populations of which, subjected to a regime of slow famine, are now physically weakened and, but for the victory of the Allies, would be on the road to progressive extermination.

These inhuman deeds therefore constitute War Crimes which come within the competency of the International Military Tribunal as far as the leaders of the Reich are concerned.

Before finishing this rapid summary of juridical questions, the Tribunal will permit me to refute in advance an argument which will certainly be presented by the Defense, especially as far as economic plunder is concerned. They will claim that your high jurisdiction did not exist, that international penal law had not yet been formulated in any text when the defendants perpetrated the acts with which they are at present charged, and that therefore they could not be condemned to any sentence whatsoever by virtue of the principle of non-retroactivity of penal laws.

Why, Gentlemen, is this principle adopted by modern legislation? It is indisputable that any person who is conscious of never having violated any legal prescription could not be condemned because of acts which were committed in such circumstances.

For example, somebody issues a check without funds to cover it, before his country had adopted a penalty for such an offense. But the case which is submitted to you is quite different. The defendants cannot maintain that they were not conscious of having violated legislation of any kind. First of all, they violated international conventions: The Hague Convention of 1907, the Kellogg-Briand Pact of 27 August 1938, and then they violated all the penal laws of the invaded countries.

How, in these proceedings, shall economic plunder be qualified? Theft, swindling, blackmail, and even, I will add, murder—since, in

order to attain their aims, the Germans have premeditated and committed numerous murders which enabled them to intimidate the population in order to plunder them better.

From the point of view of domestic law, these deeds certainly fall under the application of Articles 295 and the following ones of the French penal code, and especially of Article 303, which stipulates as guilty of murder all offenders, of whatever category, who, to execute their crimes, resort to torture or perpetrate barbarous acts. I will add that the defendants violated even the German criminal code, in particular under Articles 249 and following.

Counsel for the Defense will certainly stress that some leaders of the invaded countries were in agreement with the Reich Government as to the economic collaboration, and that consequently the Reich Government cannot be charged with acts which derive from these agreements.

Such arguments must be refuted:

1.) If, in all the invaded countries, patriots resisted with more or less courage, it is true that some of them, out of inertia, fear, or self interest, turned traitors to their country. They have been or will be condemned. But the crimes committed by certain of them cannot be exonerating or even extenuating circumstances in favor of the defendants, especially since the latter had very often put these traitors in to manage the occupied countries. The fact of having brought individuals to turn traitor to their country only aggravates, on the contrary, the heavy charges against the defendants.

2.) These so-called agreements had all been obtained by pressure or by threat. The concluded contracts show that they were solely in favor of Germany, who, as a matter of fact, never brought any compensation or illusory benefits—very often their burdensome nature is seen from the mere reading of such contracts, as I will have the honor to show in certain particular cases.

With these explanations my general observations on the economic pillage are concluded, and if the Tribunal is willing we can examine the particular case of Denmark.

When the Germans invaded Denmark, contrary to all the prescriptions of the law of nations and to their engagements, they were not certain of rapidly dominating Western Europe. At first they laid down the principle that they would not take anything in the country, but after their success of May 1940 their attitude changed; and little by little they treated Denmark more or less like the other occupied countries.

Nevertheless, they sought to achieve annexation pure and simple, and took rigorous measures against the population only in the course of 1942, when they saw that they would not be able to win Denmark over. From the economic point of view, and to assure

their domination, they tried to have at their disposal the majority of the Danish means of payment, and they used to this effect two methods which to a great extent were used by them in other countries: (1) The levying of a veritable tribute of war, under the pretext of maintaining their army of occupation; (2) the functioning of the so-called clearing agreement to their almost exclusive benefit. These two methods should be studied in Chapter I of this statement.

Chapter I, German seizure of the means of payment; costs of occupation.

Article 49 of the Hague Convention stipulates that if the occupant levies a tax the money will only be for the army of occupation or for the administration of the territory.

The occupant can therefore levy a tax for the maintenance of its army, but this tax must not exceed the sum strictly necessary. The needs of the army of occupation mean, not the costs of armament and equipment, but only the costs of billeting, food, and pay. I say normal expenses, which exclude luxuries.

Article 52 authorizes the occupying power to exact from the communes or inhabitants, for the needs of the army, requisitions in kind and services, with the express condition that they should be proportionate with the resources of the country and of such a nature that they should not imply for the population the obligation to take part in operations against their own country.

The same Article 52 stipulates that levies in kind shall be paid as far as possible in cash; otherwise they are to be confirmed by receipts and the sums due paid as soon as possible.

In other words, the Hague Convention allows the occupying army to requisition in occupied territories what is necessary for the maintenance of the troops but under two conditions, apart from contributions in kind: 1) That the requisitions and the services should be proportionate to the resources of the country, that is to say, that sufficient should be left over for the inhabitants, to enable them at least to live; 2) that the levies should be paid as soon as possible. This is not a question of fictitious payment made with funds extorted from occupied countries, but actual payment, which implies supplying real equivalents.

Article 53 of the Convention of The Hague which permits the occupying powers to seize everything which could be turned against them—and in particular, cash, funds, and securities of all kinds belonging to the state of the occupied country—does not authorize the occupying power to appropriate them.

According to information furnished by the Danish Government, when the Germans entered Denmark they declared that they would not demand anything from the country, but that supplies for the German Army would come from the Reich.

Nevertheless, instead of buying Danish crowns to permit their troops to spend money in Denmark, as early as 9 May 1940 they imposed the circulation of notes of the Reichskreditkasse, which is shown in Number 26 of the VOBIF, which I have already submitted under Document Number RF-93.

Upon the protestations of the National Danish Bank against the issuing of foreign paper money, the Germans withdrew these notes from circulation, but demanded the opening of an account at the National Bank, promising to draw upon it only for sums which were essential for the maintenance of their army in Denmark.

But the Germans did not lose time in violating their promises and in levying on their account, in spite of the Danish protests, sums infinitely superior to the needs of the army of occupation.

According to the information given by the Danish Government, the Germans levied, per month, an average of 43 million crowns in 1940; 37 million crowns in 1941; 39 million crowns in 1942; 83 million crowns in 1943; 157 million crowns in 1944; 187 million crowns in 1945. The total of these levies amounts, according to the Danish Government, to 4,830 million crowns.

I submit, as Document Number RF-115, the financial report of the Danish Government concerning this, a report to which I shall refer again in the course of this statement.

The indications of the Danish Government are corroborated by a German document discovered by the United States Army, Document EC-86, Page 11, which I submit to the Tribunal as Exhibit Number RF-116.

This is a secret report of 10 October 1944, written by the Arbeitsstab Ausland, and concerns the requisition of funds of the occupied territories.

On Page 11 the following is said:

> "Denmark is not considered as occupied territory, and therefore does not pay occupation expenses. The means necessary for the German troops are placed at the disposal of the central administration of the Reichskreditkasse by the Central Danish Bank, through channels of ordinary credit. In any case, for the duration of the war uniform payment by Denmark is assured."

The writer of this report says that the levies to 31 March 1944, for occupation expenses, amount to: 1940-1941, 531 million crowns; 1941-1942, 437 million crowns; 1942-1943, 612 million crowns; 1943-1944, 1,391 million crowns; which represents, up to 31 March 1944, levies amounting to 2,971 million crowns. This corresponds to the information given by the Danish Government for approximately the same period—2,723 million crowns.

The same German report shows that the rate of exchange for the mark, as compared to the rate of exchange for the crown, had been fixed by the occupying powers at 47.7, then at 53.1 marks per 100 crowns.

Even though the Germans claim, against all evidence, that Denmark was not an occupied territory, they levied in this country the total sum of 4,830 million crowns, an enormous sum in view of the number of inhabitants and the resources of the country. In reality, this was nothing other than a war tribute which Germany imposed under the pretext of furnishing means of payment to her army stationed in Denmark.

The maintenance of the army necessary for occupying Denmark did not necessitate such large expenses. It is evident that the Germans used, as in other countries, the majority of the funds extorted from Denmark to finance their war effort.

Chapter II, clearing.

In 1931 Germany faced financial difficulties, which she used as a pretext to declare a general moratorium on all her foreign obligations. Nevertheless, to be able to continue, to a certain extent, her commercial operations with foreign countries, she concluded with most of the other nations agreements permitting the payment of her commercial debts, and even of certain financial debts, on the basis of a system of compensation called "clearing".

Ever since the beginning of the occupation, 9 April 1940, and for its duration, the Danish authorities did everything they could, but in vain, to counteract German activity in this direction.

Under the pressure of occupying forces Denmark could not prevent her credit in the clearing balance from constantly increasing, owing to the German purchases which were made without the guarantee of any equivalent. According to the Danish Government, the credit balance of the account progressed in the following way: 31 December 1940, 388,800,000 crowns; 31 December 1941, 784,400,000 crowns; 31 December 1942, 1,062,200,000 crowns; 31 December 1943, 1,915,800,000 crowns; 31 December 1944, 2,694,600,000 crowns; 30 April 1945, 2,900 million crowns.

These data are corroborated by those of the German report which I submitted a few minutes ago under Exhibit Number RF-116 (Document Number EC-86), and according to which, on 31 March 1944, the Germans had procured for themselves means of payment, through clearing, amounting to a total sum of 2,243 million crowns.

It has not been possible to establish the use the occupants made of the sum of 7,730 million crowns which they obtained fraudulently, to the detriment of Denmark, with the help of the indemnity of occupation and of clearing.

The information which we have up to now does not enable us to estimate the extent of the operations carried out by the Germans on the black market. Nevertheless, the writer of the report of 10 October 1944, presented previously, indicates; and I quote:

"An estimate of the amounts spent on the black market must not be made. Of course, one may assume that members of the Wehrmacht are buying at top prices butter and other products in Denmark. But it is impossible to fix these sums even approximately, for the black market seems to be less widespread and less well co-ordinated than in the other occupied territories of the West, and is closer to the structure of the German black market with its fluctuating prices. Nevertheless, the prices of the Danish black market can generally be considered as much lower than the German prices. It is, therefore, not possible to speak of an average high price, as for instance in France, Belgium, and Holland."

It is worth noting that the Germans, and especially members of the Wehrmacht, used to operate on the black market and that payment was effected with funds extorted from Denmark.

Concerning the apparently regular requisitions, we also lack the necessary information to be able to give precise details. Nevertheless, according to a secret report of 15 October 1944, addressed by the German officer of the Economic Staff for Denmark to his superiors in Frankfurt an der Oder, a document discovered by the United States Army and which I submit as Document Number RF-117, the following goods were requistioned by his department:

"From January to July 1943, 30,000 tons of turf; in May 1944, 6,000 meters of wood . . . ."

The writer adds that they tried to push this production to 10,000 cubic meters per month.

". . . in September 1944, 5,785 cubic meters of cut timber, 1,110 meters of uncut timber, 1,050 square meters of plywood, 119 tons of paint for ships, and special wood for the navy."

Gentlemen, this is but an enumeration of the requisitions which just one German section happened to make within a short time.

Denmark had to furnish large quantities of cement. Germany furnished her, in exchange, with the coal necessary for this manufacture.

According to this report which I have mentioned, in August 1944 the Germans bought in Denmark foodstuffs for over 8,312,278 crowns. These figures are less than the truth. According to the last information we have received from the Danish Government, the requisitions of agricultural items alone amounted, on an

average, to 70 million crowns per month; which represents, for 60 months of occupation, requisitions to a value of 4,200 million crowns.

Chapter III, requisitions not followed by payment.

Apart from that which they managed to buy with the help of crowns which were deposited in their accounts under the pretext of the maintenance of the army of occupation and of clearing, the Germans appropriated an important quantity of things without having paid for them in any seemingly regular manner.

It was in this way that they appropriated supplies from the Danish Army and Navy—lorries, horses, means of transport, furniture, clothing, the amount of which to date has not been evaluated but might be estimated at about 850 million crowns. Many requisitions and secret or even apparent purchases have not yet been estimated exactly.

The same report, submitted under Document Number RF-115, contains, on the part of the Danish Government, an approximate and provisional estimate of the damages sustained by Denmark and of the German plunder, which amounts to 11,600 million crowns.

The information which we have to date does not permit me to give any more particulars concerning Denmark. I will, therefore, if the Tribunal will permit me, begin with the particular case of Norway.

The economic plundering of Norway.

The German troops had only arrived in Norway when Hitler declared, on 18 April 1940, that the economic exploitation of that country should be proceeded with, and for that reason Norway must be considered as an enemy state.

The information which we have on the economic plundering of Norway is rather brief; but it is, nevertheless, sufficient to estimate the German activity in this country during the entire period of the occupation.

Norway was subjected to a regime of most severe rationing. As soon as they entered the country, the Germans tried—and this was contrary to the most elementary principles of International Law—to draw from Norway the maximum resources possible.

In a document discovered by the United States Army, Document Number ECH-34, which I submit as Exhibit Number RF-118, a document which consists of the *Journal de Marche* of the economy and armament service in Norway, written in April 1940, we have excerpts of the directives relative to administration and economy in the occupied territories.

Here are some excerpts from this document:

"Directive of Armament Economy:

"Norwegian industry, to the extent to which it does not directly supply the population, is, in its essential branches, of particular importance for the German war industry. That is why its production must be put, as soon as possible, at the disposal of the German armament industry, if this has not already been done. This production consists mainly of intermediate products, which require a certain amount of time to be turned into useful products, and of raw materials which —such as aluminum, for example—can be used while we wait for our own factories, which are being built, to be in a position to produce.

"In this connection, above all, the following industrial branches must be taken into consideration:

"Mining plants for the production of copper, zinc, nickel, titanium, wolfram, molybdenum, silver, pyrites.

"Furnaces for the production of alumina, aluminum, copper, nickel, zinc.

"Chemical industries for the production of explosives, synthetic nitrogen, calcium nitrate, superphosphate, calcium carbide, and sodium products.

"Armament industries, naval dockyards, power stations, especially those which are supplying electric current to the above-named industries.

"The production capacities of these industries must be maintained at the highest possible level for the duration of the occupation.

"A certain measure of assistance by the Reich will, at times, be necessary to overcome industrial bottlenecks which are to be expected on account of the cutting off of English and overseas imports.

"Of particular importance is the guaranteeing of raw material industries which to a considerable part depend on overseas imports.

"For the moment it may be left undecided whether a future supply of bauxite from the German stocks is necessary for utilizing the capacities of the aluminum plants."

As soon as the troops entered Norway, Germany issued notes of the Reichskreditkasse which were legal tender only in Norway and which could not be used in Germany. As in the other occupied countries, this was a means of pressure to obtain financial advantages, which were supposedly freely given by the brutally enslaved countries.

The Germans did their best to become masters of the means of payment and of Norwegian credit by the two methods which have become classic: Imposition of a veritable war tribute, on the pretext of the maintenance of the army of occupation, and also the working of a system of clearing to their profit.

German seizure of the means of payment.

First, indemnities for the maintenance of the army of occupation.

At the beginning of the occupation, the Germans used for their purchases notes of the Reichskreditkasse. The Norwegian holders of this paper money used to change it at the Bank of Norway, but this financial institution could not obtain from the Reichskreditkasse any real equivalent. In July 1940 the Bank of Norway had to absorb 135 million Reichsmark from the Reichskreditkasse. To avoid losing control over monetary circulation, the Bank of Norway was obliged to put the Norwegian notes at the disposal of the Germans, who drew checks on the Reichskreditkasse which the Bank of Norway was obliged to discount.

The debit account of the Bank of Norway, following the German levies, amounted to:

1,450 million crowns at the end of 1940; 3,000 million crowns at the end of 1941; 6,300 million crowns at the end of 1942; 8,700 million crowns at the end of 1943; 11,676 million crowns at the liberation of the country.

All the Norwegian protests were in vain in the face of German extortions. The constant threat of the new issuing of notes of the Reichskreditkasse as instruments of obligatory payment beside the Norwegian currency obliged the local financial authorities to accept the system of levies on account, without actual cover, which was less dangerous than the issuing of paper money over the circulation of which the Norwegian administration had no power of control.

This may be seen in particular from a secret letter sent on 17 June 1941 by General Von Falkenhorst, Commander-in-Chief in Norway, to the Reich Commissioner, Reichsleiter Terboven, a copy of which was found not long ago in Norway and which I submit to the Tribunal as Document Number RF-119. In this document, after having stated that one could not reduce the expenses of the Wehrmacht in Norway, Von Falkenhorst writes:

> "I am, however, of the opinion that the problem cannot be solved at all in this manner. The only remedy is to abandon completely the actual monetary system by introducing Reich currency. But of course this does not come into my domain. I regret, therefore, that I am not able to propose any other remedies to you, although I am fully conscious of the seriousness of the situation in which you find yourself."

To the indemnities for the alleged maintenance of the army of occupation must be added a sum of 3,600 million crowns paid by the Norwegian Treasury for the billeting of German troops. This information comes to us from a report from the Norwegian Government, which I submit as Document Number RF-120.

From the sum of approximately 12,000 million crowns levied for the alleged maintenance of the occupation troops, a large part was used for other purposes; for the police and propaganda, in particular, the occupation spent 900 million crowns. This comes from a second report of the Norwegian Government, which I submit as Document Number RF-121.

Secondly, clearing.

The clearing agreement of 1937 for the barter of goods between Norway and Germany remained in force during the occupation but it was the Bank of Norway which had to advance the necessary funds for the Norwegian exporters. The Germans also concluded clearing agreements in the name of Norway with other occupied countries, neutral countries, and with Italy.

At the liberation, the credit balance of Norwegian clearing amounted to 90 million crowns but this balance does not show the actual situation. In fact:

1) The imports destined to the German military needs in Norway were handled through clearing in a very improper manner;

2) For certain goods especially (pelts, furs, and fish) the Germans had demanded that exportation should be made to the Reich. Then they sold these products again in other countries, especially Italy as far as fish was concerned;

3) The Germans, who controlled the fixing of prices, systematically raised the price of all products imported into Norway which, moreover, were used for the greater part for the military needs of the occupation. On the other hand, they systematically lowered the prices of the products exported from Norway.

In spite of all their efforts and sacrifices, and owing to the fraudulent operations of the occupiers, the Norwegian authorities could not prevent a very dangerous inflation.

From the report of the Norwegian Government, which I submitted under Document Number RF-120 a few moments ago, it is seen that the paper currency which in April 1940 amounted to 712 million crowns, rose progressively to reach, on 7 May 1945, 3,039 million crowns. An inflation of this extent, resulting from the activities of the occupiers, enables us to measure the impoverishment of the country. The same report indicates that the Germans did not manage to seize the gold of the Norwegian Bank, as that had been hidden in good time.

Let us now, Gentlemen, examine the levies in kind.

The Germans proceeded, in Norway, to make numerous requisitions which were or were not followed by so-called regular payments. According to the report of the Norwegian Government, here is the list of requisitioned goods: Meat, 30,000 tons; dairy products and eggs, 61,000 tons; fish, 26,000 tons; fruit and vegetables, 68,000 tons; potatoes, 500,000 tons; beverages and vinegar, 112,000 tons; fats, 10,000 tons; wheat and flour, 3,000 tons; other foodstuffs, 5,000 tons; hay and straw, 300,000 tons; other fodder, 13,000 tons; soap, 8,000 tons.

But this list which I have just read to the Tribunal includes only the official purchases, which were made with Norwegian currency and paid for through clearing; it does not include the illicit purchases.

At present, it is not yet possible to make estimates. As an example, we can say, however, that the export of fish, most of which went to Germany, for 1 year only (1942) came to about 202,400 tons, whereas the official requisitions during the whole occupation amounted only to 26,000 tons.

As in other occupied territories, the Germans forced the continuation of work under threat of arrest.

Most of the Norwegian merchant fleet escaped from the Germans; nevertheless, they requisitioned all the ships they could, especially most of the fishing boats.

Even if the occupier could not seize all railway rolling stock, trams, as well as about 30,000 motor vehicles, were transported to Germany.

If we refer to the report of 10 October 1944 of the German Economic Service, which I submitted under Exhibit RF-116 (Document Number EC-86), we will see that the writer of the report himself estimates that the effort demanded from Norway was beyond her possibilities; and he writes:

> "... Norwegian economy is especially heavily burdened by the demands of the occupation Forces. For this reason the cost of occupation had to be limited to cover only a part of the expenses of the Wehrmacht...."

After having mentioned that the cost of occupation which had been collected up to January 1943 amounted to 7,535 million crowns, which corroborates the data given by the Norwegian Government, the writer of the German report says:

> "This sum of more than 5,000 million Reichsmark is, indeed, very high for Norway. Much richer countries, as for example, Belgium, pay hardly more, and Denmark does not even supply half of this sum. These large payments can only be

made possible by German additions. It is, therefore, not surprising that the German-Norwegian trade is in Germany's favor—that is, it is subsidized. Norway, owing to her very small population, can hardly put labor at the disposal of the German war economy. She is, therefore, one of the few countries which owe us certain amounts in clearing."

Further on, the writer adds:

"... If we deduct approximately 140 million Reichsmark from the expenses of the occupation and the various credits calculated above, we have Norwegian payments to the still considerable amount of approximately 4,900 million Reichsmark."

THE PRESIDENT: Perhaps that would be a good time to break off.

[The Tribunal recessed until 1400 hours.]

Afternoon Session

M. GERTHOFFER: I had the honor, this morning, of relating to you how the occupiers were able to exact great quantities of the means of payment from Norway. We shall now see, from the first data which have been given us, the use to which the occupiers put these means of payment.

The Germans seized, as in the other occupied countries, considerable private property on some pretext or other—property belonging to Jews, Freemasons, or Scout associations. It has been impossible, so far, to make a very exact evaluation of this spoliation. We can therefore only give some indication from memory. According to the report of the Norwegian Government, submitted under Document Number RF-121, in 1941 the Germans seized all the radio sets . . .

THE PRESIDENT: Have you any evidence to support the facts you are stating now?

M. GERTHOFFER: This is based on information contained in the report of the Norwegian Government which I have submitted under Document Number RF-121.

THE PRESIDENT: Yes.

M. GERTHOFFER: According to that report, in 1941 the Germans seized almost all the radio sets belonging to private individuals. The value of these radio sets is approximately 120 million kroner. The Germans imposed heavy fines on the Norwegian communities under the most varied pretexts, notably Allied bombing raids and acts of sabotage.

In the report presented under Document Number RF-121 the Norwegian Government gives two or three examples of these collective fines: on 4 March 1941, after a raid on Lofoten, the population of the small community of Ostvagoy had to pay 100,000 kroner. Communities also had to support German families and families of "Quislings."

On 25 September 1942, after a British raid on Oslo, one hundred citizens were obliged to pay 3,500,000 kroner. In January 1941 Trondheim, Stavanger, and Vest-Opland had to pay 60,000, 50,000, and 100,000 kroner, respectively. In September 1941 the municipality of Stavanger was obliged to pay 2 million kroner for an alleged sabotage of telegraph lines. In August 1941 Rogaland had to pay 500,000 kroner, and Aalesund had to pay 100,000 kroner.

It can thus be stated in principle that, by various procedures which differed hardly from those employed in other countries, the Germans during the occupation of Norway not only exhausted all

the financial resources of that country but placed it considerably in debt.

It has not been possible to furnish a detailed account of German extortions, whether made after requisitions, followed or not by indemnities, or by purchase, apparently conducted by mutual agreement fictitiously settled with those very means of payment extorted from Norway.

In the report which I have submitted under Document Number RF-121, the Norwegian Government tabulated the damages and losses suffered by its country. I shall give a summary of this table to the Tribunal.

The Norwegian Government estimates that the damages suffered by industry and commerce amount to a total of 440 million kroner, of which the Germans have paid, fictitiously of course, only 7 million kroner; merchant vessels to the value of 1,733 million kroner, for which Germany has made no settlement; damage to ports and installations amounts to 74 million kroner, for which Germany has settled fictitiously only to the extent of 1 million kroner; for railroads, canals, airports, and their installations, the spoliation represents the sum of 947 million, for which Germany has fictitiously paid 490 million kroner; roads and bridges, 199 million kroner, for which the settlement amounts to 67 million; spoliation of agriculture reached 242 million kroner, of which only 46 million have been settled; personal property, 239 million, of which nothing has been settled; various requisitions, not included in the preceding categories, amount to 1,566 million kroner, for which the occupier, fictitiously, has settled up to the amount of 1,154 million kroner. The Norwegian Government estimates that the years of man-labor applied to the German war effort represent a sum of 226 million kroner. It estimates, on the other hand, that the years of man-labor lost to the national economy by deportation to Germany and forced labor by the order of Germany amounts to 3,122 million kroner. Forced payments to German institutions amount to 11,054 million kroner, for which Germany has made no settlement whatsoever. The grand total, according to the Norwegian Government, is 21,086 million kroner, which represents 4,700 million dollars.

Norway suffered particularly during the German occupation. Indeed, though her resources are considerable, notably timber from the forests, minerals such as nickel, wolfram, molybdenum, zinc, copper, and aluminum, nevertheless Norway must import indispensable food products for feeding her population.

As the Germans had absolute control over maritime traffic, nothing could come into Norway without their consent. They could therefore, by pressure, as they had to do in France by means of the line of demarcation between the two zones, impose their

demands more easily. The rations, as fixed by the occupiers, were insufficient to insure the subsistence of the Norwegian population. The continued undernourishment over a period of years resulted in very serious consequences: Disease multiplied, mortality likewise increased, and the future of the population has been jeopardized by the physical deficiencies of its younger element.

These are the few observations which I had to make on the subject of Norway. I shall, if the Tribunal will permit, now deal with the part which relates to the Netherlands.

Economic pillage of the Netherlands.

In invading the Netherlands in contravention of all the principles of the law of nations, the Germans installed themselves in a country abundantly provided with the most varied wealth, in a country in which the inhabitants were the best nourished of Europe and which, in proportion to the population, was one of the wealthiest in the world. The gold reserve of Holland exceeded the amount of bills in circulation. Four years later when the Allies liberated that country, they found the population afflicted by a veritable famine; and apart from the destruction resulting from military operations, a country almost entirely ruined by the spoliation of the occupation.

The dishonest intentions of Germany appear in a secret report by Seyss-Inquart on his governorship. This report, dating from 29 May to 19 July 1940, was discovered by the United States Army. It has been registered under the number Document 997-PS, and I submit it to the Tribunal as Exhibit Number RF-122. These are the chief extracts from this report:

"It was clear that with the occupation of the Netherlands a large number of economic and also police measures had to be taken, the first ones of which were for the purpose of reducing the consumption of the population in order to obtain supplies for the Reich, on the one hand, and to secure a just distribution of the remaining supplies, on the other hand. With regard to the task assigned, endeavors had to be made for all these measures to bear the signature of Dutchmen. The Reich Commissioner therefore authorized the Secretaries General to take all the necessary measures through legal channels.

"In fact, to date, nearly all orders concerning the seizure of supplies and their distribution to the population and all decrees regarding restrictions on the moulding of public opinion have been issued. But agreements concerning the transport of extraordinarily large supplies to the Reich have also been made, all of which bear the signatures of the Dutch Secretaries General or the competent economic leaders, so that all of these measures have the character of being voluntary.

It should be mentioned in this connection that the Secretaries General were told in the first conference that loyal co-operation was expected of them, but that they were entitled to resign if something should be ordered which they felt they could not endorse. Up to date none of the Secretaries General have made use of this privilege, so that one may reasonably conclude that they have complied with all requests of their own free will.

"The seizure and distribution of food supplies and textiles have been almost completed. At least all the appropriate orders have been issued and are being executed.

"A series of instructions concerning the reorientation of agriculture have been issued and are being executed. The essential point is to use the available fodder in such a way that as large a stock as possible of horned cattle, about 80 percent, will be carried over into the next farming season, at the expense of the disproportionately high stock of chickens and hogs. Rules and restrictions have been introduced in the organization of traffic, and the rationing of gasoline was applied on the same lines as in the Reich.

"Restriction of the right to give notice at work, as well as to cancel leases, has been issued in order to curb the liberal and capitalistic habits of the Dutch employers and to avoid unrest. In the same way the terms for repayment of debts have been extended under certain circumstances....

"...the ordinance concerning registration and control of enemy property, as well as confiscation of the property of persons who show hostility to the Reich and to Germans, were issued in the name of the Reich Commissioner. On the basis of this ordinance an administrator has already been appointed for the property of the royal family.

"Stocks of raw materials have been seized and, with the consent of the General Field Marshal, distributed in such a way that the Dutch have enough raw materials to maintain their economy for half a year, so that they receive the same allocation quotas as obtain in the Reich. The same principle of equal treatment is being used in the supply of food, *et cetera*. This enabled us to secure considerable supplies of raw materials for the Reich, as for instance 70,000 tons of industrial fats, which is about half the amount which the Reich is lacking. Legislation concerning exchange has been introduced on the same pattern as in the Reich.

"Finally we succeeded in causing the Dutch Government to supply all the amounts which the Reich and the German

administration in the Netherlands need, so that these expenses do not burden the Reich budget in any way.

"Sums of guilders have been made available to redeem the occupation marks to the amount of about 36 million; an additional 100 million for the purposes of the occupation army, especially for extension of the airports; 50 million for the purchase of raw materials to be shipped to the Reich, so far as they are not booty; and amounts to guarantee the unrestricted transfer of the savings of the Dutch workers brought into the Reich, to their families, *et cetera*. Finally, the rate of exchange of the occupation marks, set at first by the Army High Command in the proportion of 1 guilder to 1.50 Reichsmark, has been reduced to the correct proportion of 1 guilder to 1.33 Reichsmark.

"Above all, however, it was possible to obtain the consent of the President of the Bank of The Netherlands, Trip, to a measure suggested by Commissioner General Fischböck and approved by the General Field Marshal, namely the unrestricted mutual obligation of accepting each other's currency. That means that the Bank of The Netherlands is bound to accept any amount of Reichsmark offered to it by the Reich Bank and in return to supply Dutch guilders at the rate of 1.33, that is, 1 Reichsmark equals 75 cents. The Reich Bank alone has control in these matters, not the Bank of The Netherlands, which will be notified only of individual transactions.

"This ruling goes far beyond all pertinent rulings hitherto made with the political economies of neighboring countries, including the Protectorate, and actually represents the first step towards a currency union. In consideration of the significance of the agreement, which already affects the independence of the Dutch State, it is of special weight that the President of the Bank, Trip, who is very well known in western banking and financial circles, signed this agreement of his own free will in the above sense."

As you will see from the explanations which I shall have the honor of submitting to you, it was chiefly in the Netherlands that the Germans used all their ingenuity in extorting the means of payment. This spoliation will form the subject of the first chapter.

We shall then examine the use made by the occupiers of these means of payment. In a second chapter we shall discuss the black market; in a third, we shall consider the acquisition made in a manner only outwardly regular; a fourth chapter will be devoted to various kinds of spoliation. Finally, we shall touch upon the chief consequences to the Netherlands of this economic pillage.

Chapter 1, German seizure of means of payment.

A.) Indemnity for occupation costs.

I have already had the privilege, Gentlemen, of explaining under what conditions and within what limit, by virtue of the Hague Convention, the occupying power may raise contributions in money for the maintenance of its army of occupation.

I shall confine myself to reminding the Tribunal that these costs which are charged to the occupied countries can include only the costs of billeting, feeding, and possibly of paying those soldiers strictly necessary for the occupation of territories.

The Germans knowingly ignored these principles by imposing upon the Netherlands the payment of an indemnity for the maintenance of their troops which was far out of proportion to the needs of the latter.

According to information furnished by the Netherlands Government, which is contained in three reports (the reports of Trip, Hirschfeld, and the Minister of Finance) which I submit as Document Number RF-123, the following sums were exacted on the pretext of being indemnity for the maintenance of occupation troops: 1940 (7 months), 477 million guilders; 1941, 1,124 million guilders; 1942, 1,181 million guilders; 1943, 1,328 million guilders; 1944, 1,757 million guilders; 1945 (4 months only), 489 million guilders. That makes a total of 6,356 million guilders.

A sum as considerable as this constitutes a veritable war tribute raised on the pretext of the maintenance of an army of occupation. Germany thus fraudulently circumvented the regulations of the Hague Convention to seize a considerable amount of means of payment.

B.) Clearing.

In 1931 Germany, faced with economic and financial difficulties, declared a general moratorium on her previous commitments. Nevertheless, in order to be able to continue her foreign commercial operations, she had concluded with most of the other countries, notably with the Netherlands, agreements making possible the settling of commercial debts and, to a certain extent, of financial debts, on the basis of the exchange system called "clearing."

Before the war there existed on the Netherlands "clearing" an excess of imports from Germany. But after the first months of occupation there was, on the contrary, a considerable excess of exports to Germany, whereas the receipts coming from that country dropped perceptibly.

From the month of June 1940 onward the Germans exacted from the Dutch declarations of foreign currency, gold, precious metals, securities, and foreign credits, as can be seen from the Ordinance

of 24 June 1940, submitted as Document Number RF-95. Moreover, the Dutch could, by virtue of the same ordinance, be obliged to sell their stocks to the Bank of The Netherlands.

The German Reich Commissioner, Seyss-Inquart, forced the Bank of The Netherlands to make advances in guilders to maintain equilibrium in clearing, since Germany could furnish no equivalent in merchandise. On the other hand, it was decided that the clearing system should be utilized for the delivery of merchandise as well as for the payment of any debts.

In fact the Germans could buy merchandise and transferable securities in Holland without furnishing any equivalent. The credits in marks of the Dutch sellers were blocked in the Bank of The Netherlands which, on its part, had been obliged to make an equivalent advance on the clearing exchange.

To attempt to limit the fall of the Dutch account on the clearing exchange, and to avoid the transfer by this means of guilders or of transferable stock into Germany, on 8 October 1940, the Secretary General of Netherlands Finance imposed a large tax on the marks that were blocked on the clearing exchange.

However, under date of 31 March 1941, the credit of the Netherlands exceeded 400 million guilders, which in fact had been advanced by the Netherlands Government. At this point the occupiers demanded:

1) That a sum of 300 million guilders be withdrawn from the balance of 400 million and deposited in the German Treasury under the heading of "Military Occupation Costs Incurred 'Outside' The Netherlands," and this was independent of payments already made by that country for the occupation costs.

2) By a decision of the Reich Commissioner, under date of 31 March 1941, reported in the *Verordnungsblatt* in France, Number 14, which I submit to the Tribunal as Document Number RF-124, payment operations with the Reich were no longer to pass through the clearing exchange but to be operated directly from bank to bank, which would create direct credits of the Netherlands banks on the German banks at the imposed exchange of 100 Reichsmark for 75.36 guilders.

3) By a decree of the same date, 31 March 1941, which I submit as Document Number RF-125, the tax on blocked marks, created on 8 October 1940 by the Netherlands authorities, was abolished.

Faced with this situation, particularly dangerous to the Netherlands treasury, Mr. Trip resigned his position as Secretary General for Finance and President of The Netherlands Bank.

The Reich Commissioner replaced him with Rost von Tonningen, a notorious collaborator who complied with all the demands of the occupying power.

As the private banks were unwilling to keep credits in marks at a rate very disadvantageous to the real parity of 100 Reichsmark to 75.36 guilders, they transferred their credits in marks to the Bank of The Netherlands. The credit account of the Institute of Exports to Germany, through operations with that country, rose considerably; while the credit balance as of 1 April 1941 amounted to 235 million guilders, it was to rise by 1 May 1945, to 4,488 million guilders.

According to information given by the Netherlands Government, this credit was accounted for by purchases of all kinds of merchandise made by the Germans in Holland, of transferable stock or other valuable papers, by payment of services imposed upon Dutch enterprises, the wages of workers deported to Germany, and the liquidation debts incurred by the occupiers.

Apart from these two methods—indemnities for the occupation troops and clearing—the Germans procured resources for themselves in another way—by imposing collective fines, and this in violation of the provisions of Article 50 of the Hague Convention.

In the course of the occupation, under every pretext, the Germans imposed, by way of reprisal or intimidation, considerable fines upon the municipalities. These fines had to be paid by the inhabitants, with the exception of persons of German nationality, members of pro-Nazi associations (NSB, Waffen-SS, NSKK, Society for Technical Aid Services of the Dutch-German cultural community), and persons working for the Germans. According to information which has been obtained up to the present, of only 62 municipalities the total fines thus imposed amounted to a minimum of 20,243,024 guilders. This is based on testimony of the Netherlands Government, which I submit as Document Number RF-126.

From the same testimony, in the archives forgotten by the Germans at The Hague, there have been discovered two copies of letters relative to these collective fines. According to the first of these copies, which is a letter of 8 March 1941, collective fines amounting to 18 million guilders had been raised at the beginning of the year 1941. From the second, we learn that Hitler had given the order to employ this sum for National Socialist propaganda in the Netherlands. I quote:

"Reich Commissioner, The Hague, 1808, 8 March 1941.

"To Liaison Headquarters, Berlin, 1720 hours; to be submitted immediately to Reichsleiter M. Bormann.

"A sum of 18.5 million guilders representing contributions exacted as reprisals from some Dutch cities, will arrive in the next few days. The Reich Commissioner is inquiring whether the Führer has earmarked this sum for a special purpose or if it is to be used in the same way as the Führer

has previously ordered in the case of confiscated enemy property. At that time the Führer stipulated that these sums should be spent in the Netherlands for the needs of the community under the proper political considerations.

"Heil Hitler!"—Signed—"Schmidt, Münster, Commissioner General."

This, then, is the translation of the answer, Document Number RF-126:

"Obersalzberg, 19 March 1941, 1000; Number 4.

"Reichsleiter M. Bormann . . . ."

THE PRESIDENT: One moment! Some of the copies which you have just submitted to us don't seem to be accurate and the passage which you have just been reading is omitted from some of them.

[Another copy of the document was presented to the President.]

I now have another copy of the document from which you have read. The two copies which have been handed up are not identical.

M. GERTHOFFER: The document has possibly been improperly numbered. There are two documents, Number RF-126, which should have been indicated as RF-126(1), and RF-126(2). The representative of the Government of The Netherlands certifies the accuracy of the translation of the first copy; and in the second RF-126 document the same representative of the Netherlands Government certifies the existence of the copy of the answer from the headquarters of the Führer.

THE PRESIDENT: The first document is the one you have just read out. The second document begins with the words, "J'ai soumis aujourd'hui." Is that the second document to which you are referring?

M. GERTHOFFER: It is the second document.

THE PRESIDENT: Could we see the originals? They are two different documents, are they? But they both begin in exactly the same way.

M. GERTHOFFER: The two documents have been submitted by the Netherlands Government. The representative of the Government of The Netherlands who has delivered them certifies that these two documents were found in the Netherlands among German papers.

THE PRESIDENT: Yes. Go on.

M. GERTHOFFER: The Dutch Government was obliged to make important payments into the German account; and in the reports submitted as Document Number RF-123, it is clearly stated that:

1) The Germans required that a sum of 300 million guilders, which was written to the credit of the Bank of The Netherlands, be used for the needs of their army of occupation outside the Netherlands and that a sum of 76 million guilders in gold be deposited for the same use. The total which the Netherlands had to pay under this pretext, namely, the maintenance of armies of occupation in other countries, was 376 million guilders.

2) From June 1941 on, the Netherlands was obliged to pay, as a contribution to the expenses of the war against Russia, a monthly sum of 37 million guilders, of which a part was payable in gold. The total of the sum that Germany raised under this heading is 1,696 million guilders.

3) The Bank of The Netherlands was obliged to undertake the redemption of Reichskreditkasse notes to the sum of 133 million guilders.

4) The costs of the civilian German government in Holland were charged to that country and amounted to 173 million guilders.

5) The Dutch Treasury was, moreover, obliged to pay 414 million guilders to the Reich account, covering divers expenses, such as wages of Dutch workers deported to Germany, the costs of evacuation of certain regions, costs of the demolition of fortifications, so-called costs for guarding railroads, funds placed at the disposal of the Reich Commissioner, and for various industries utilized by the Germans.

6) The Germans in July 1940 seized 816 bars of gold bullion belonging to the Bank of The Netherlands, which were in the wreck of a Dutch ship sunk at Rotterdam, which represented, including costs of recovery, 21 million guilders.

7) The Government of The Netherlands was obliged to bear annual expenses of 1,713 million guilders to assure the financing of new administrative services imposed on Holland by the occupying power.

In this way, Holland lost 8,565 million guilders. Altogether, including the raising of the gold from a ship sunk in the Meuse, the payments actually made to Germany amount to 11,380 million guilders. If these costs are added to the costs of occupation and clearing, the total of the financial charges imposed on Holland during the occupation amounts to the sum of 22,224 million guilders.

These operations had serious consequences for the economy of the Netherlands. Indeed, the gold supply, which on 1 April 1940 amounted to 1,236 million guilders, had, by 1 April 1945, fallen to 932 million guilders, owing to German levies.

The paper money in circulation, on the contrary, had risen from 1,127 million guilders on 1 April 1940, to 5,468 million guilders on 1 April 1945.

When the Germans occupied the Netherlands, a great portion of the gold of the Bank of The Netherlands had been sent abroad.

However, the Germans, under various pretexts, seized all the gold that was found in the vaults of the bank. I recall that, under the heading of indemnity for occupation, they collected 75 million gold guilders; and for the forced contribution of the Netherlands in the war against Russia, they demanded about 14.4 million gold guilders.

Rost von Tonningen, Secretary General of Finance and President of the Bank of The Netherlands, appointed by the Germans, wrote on 18 December 1943 to the Reich Commissioner that there had not been any gold in Holland since the preceding March. The copy of this letter is submitted as Document Number RF-127.

A document discovered by the United States Army, listed under Number ECR-174, which I submit as Exhibit Number RF-128, consists of a report of the Commissioner of the Bank of The Netherlands of 12 June 1941. It, too, states that the gold reserve of the Bank of The Netherlands amounted, on 12 June 1941, to 1,021.8 million guilders, of which only 134.6 million guilders were in Holland, the rest being either in England, South Africa, or the United States. The same report specifies that all the gold in Holland had been removed.

Not only did the Germans seize the gold of the Bank of The Netherlands, but they also made requisitions of the gold and other means of foreign payment in the possession of the population. The occupying power obliged private individuals to deposit gold which was in their possession with the Bank of The Netherlands, after which this gold was requisitioned and handed over to the Reichsbank. A sum of approximately 71.3 million guilders was paid in this way to the public in exchange for the requisitioned gold.

In the same way also the Germans bought from the public various foreign stocks to a sum of 13,224,000 guilders, and Swedish Government securities to a sum of 4,623,000 guilders.

With important financial means which they had at their disposal, the Germans proceeded to make large purchases in Holland. Such purchases, made with funds extorted from the Netherlands, cannot be considered as having been made in exchange for a real equivalent, but realized only by fictitious payments.

The Germans, in addition to numerous cases of requisitions which were followed by no kind of settlement, proceeded to illicit purchases on the black market and purchases outwardly regular.

They thus procured a quantity of things of all kinds, leaving to the population only a minimum of products insufficient to insure their vital needs.

In the second chapter of this presentation we shall examine the illicit purchases on the black market; and in a third chapter, the purchases that were carried out in seemingly regular ways.

Chapter 2, the black market.

As in all other occupied countries, in Holland the Germans seized considerable quantities of merchandise on the black market, in violation of the legislation on rationing which they themselves had imposed.

It has not been possible, in view of the clandestine nature of the operations, to determine even approximately the quantities of all kinds of objects which the Germans seized by this dishonest means. However, the secret report of the German Colonel Veltjens, which I had the honor of submitting this morning under Exhibit Number RF-112 (Document Number PS-1765) gives us for a period of 5 months, from July to the end of November, some indications of the scope of the German purchases. I quote a passage from the Veltjens report:

> "In the Netherlands, since the beginning of the action, the following purchases were made and paid for by ordinary bank remittances: Non-ferrous metals, 6,706,744 Reichsmark; textiles, 55,285,568 Reichsmark; wool, 753,878 Reichsmark; leather, skins, and hides, 4,723,130 Reichsmark; casks, 254,982 Reichsmark; furniture, 272,990 Reichsmark; food and comestibles, 590,859 Reichsmark; chemical and cosmetic products, 152,191 Reichsmark; various iron and steel wares, 3,792,166 Reichsmark; rags, 543,416 Reichsmark; motor oil, 52,284 Reichsmark; uncut diamonds, 25,064 Reichsmark; sundries, 531,890 Reichsmark. Total: 73,685,162 Reichsmark."

These purchases were paid for by checks on the banks. A large quantity of other merchandise, the amount of which it has not been possible to determine, was paid for by cash with guilders coming from the so-called occupation indemnity.

THE PRESIDENT: We will adjourn now for 10 minutes.

[A recess was taken.]

M. GERTHOFFER: In Chapter 3, which deals with the economic plundering of the Netherlands, we will treat the question of purchases of apparent regularity from information provided for us by the Government of The Netherlands.

Industrial production.

From testimony given by the representative of the Dutch Government, which I submit as Document Number RF-129, it is clear that the Germans utilized to their own profit the greater part of the industrial potential of the Netherlands; all important stocks which were in the factories were thus absorbed. The value of these stocks was not less than 800 million guilders. Moreover, the occupants proceeded to the removal of a large amount of machinery. In certain cases these requisitions were not even followed by fictitious settlements. It has not yet been possible to establish a balance sheet of these spoliations, which often included all the machinery of an industry.

As an example, we may indicate that on a requisition order of 4 March 1943, coming from the Reich Commissioner, all the machinery and technical equipment, including the drawings and blueprints of all the work shops and accessories of the blast furnaces of an important factory, were removed without any indemnity and transported to the vicinity of Brunswick for the Hermann Göring Works. This is shown in the document I submit as Document Number RF-130.

The Germans had set up in all the occupied countries a certain number of organizations charged specially with the pillaging of machines. They had given them the name of Machine Pool Office. These organizations, which were under the armament inspection, received demands from German industry for means of production and had to fulfill these demands by requisitions on the occupied countries.

Moreover, groups of technicians were charged with locating, dismantling, and transporting the machinery to Germany. The organization of these official groups of pillagers can be learned from German documents which are to be brought to your attention when the special case of Belgium will be outlined to you.

We learn from the report of 1 March 1944, addressed to the military commandant, that the Machine Pool Office of The Hague could satisfy only a small proportion of the demands. Thus, under date of 1 January 1944, these demands totalled 677 million Reichsmark, whereas in the month of January only 61 million marks worth of machinery had been delivered as against the new demands of 87 million which made a total demand for machinery of 703 million Reichsmark at the end of January 1944. This is shown in a document submitted as Document Number RF-131.

Before leaving the Netherlands the Germans effected large-scale destruction with a strategic aim, so they said, but above all with the desire to do damage. When they demolished factories, they removed beforehand and transported to Germany the machinery

which they could dismantle, as well as the raw materials. They acted in this manner particularly with respect to the Phillips factories in Eindhoven, Hilversum, and Bussum; the oil dumps of Amsterdam and Pernes; the armament factories of Breda, Tilburg, Berg-op-Zoom, and Dordrecht. These facts are dealt with in the report of the economic officer attached to the German military commander in Holland, under date of 9 October 1944, which I submit as Document Number RF-132.

The same report gives some information on the organization of German looters specialized in the removal of machinery. I give here some extracts:

> "The Phillips Works at Eindhoven was the first and the most important military objective to be dealt with."

A little farther on the writer continues:

> "Before the invasion by the enemy we succeeded in destroying these important continental works for the manufacture of radio valves, lamps, and radio apparatus. This was done after Volunteer Commando 7"—Fwi.Kdo. 7—"had previously removed the most valuable metals and special machines."

Farther on he writes:

> "Already on 7 September a commando unit transported in trucks to the Reich most important non-ferrous metals (wolfram, manganese, copper) and very valuable apparatus from the Phillips Works. Volunteer Commando 7 continued to participate in the transfer of finished and semi-finished products as well as machines from the Phillips Works. Due to the enemy's occupation of Eindhoven, the removal came to a stop. Then the clearing out of the branch factories of Phillips at Hilversum and Bussum took place. Here it was possible to remove completely all stocks of non-ferrous metal products, finished and semi-finished goods, machinery, and blueprints and designs necessary for production.
>
> "At the same time removal commandos were detailed to the heads of the various provincial branch offices under the representative of the Reich Ministry of Armaments and War Production in the Netherlands.
>
> "In agreement with the forementioned services and the competent civil offices, these commandos carried through the removal of important raw materials and products, as well as machinery. Through the unswerving and commendable zeal of officers, officials, Sonderführer, and enlisted men it was possible, during the month of September, to remove to the Reich considerable stocks of raw materials and products

and to supply the troops with useful material. This action was initiated and directed in the western and southern districts of the Netherlands by the officer in charge of volunteers in the Netherlands."

Then the writer ends, by saying:

"For the task of evacuation and for the preparation of the ARLZ measures within the area of 15th Army Command, a squad under the command of Captain Rieder was detached by Volunteer Commando 7 which also had to act as liaison with the quartermaster staff of the 15th Army Command. In this case, too, in close co-operation with the civil officers and Department IVa of 15th Army Command, good work was done by the removal of raw materials and scarce goods as well as machinery. These actions commenced only at the end of the month covered by this report."

Requisition of raw materials.

Together with the removal of machinery the Government of The Netherlands gives us exact figures on the stocks of raw materials and manufactured articles. Apart from the stocks located in the factories, the Germans acquired considerable quantities of raw materials and manufactured articles amounting to not less than 1,000 million guilders. This evaluation does not include the destruction resulting from military operations, which ranges around 300 million guilders.

Agriculture.

The Germans proceeded to make requisitions and wholesale purchases of agricultural produce and livestock. A final estimate of these requisitions, amounting to a minimum of 300 million guilders, is as yet impossible. To give an idea of their magnitude we point out that at the end of the year of 1943 the Germans had seized 600,000 hogs, 275,000 cows, and 30,000 tons of preserved meats, as is given in the testimony of the representative of the Netherlands Government, which I submit as Document Number RF-133.

In passing, we point out—although this question will be taken up again by my colleague in his presentation of war crimes against persons—that on 17 April 1944, without any apparent strategic reason, 20 hectares of cultivated lands were flooded at Wieringermeer.

Transport and communications.

The Germans made enormous requisitions of transport and communication material. It is not yet possible to draw up an exact inventory of them. Nevertheless, the information given by the Netherlands Government makes it possible to form an idea of the magnitude of these spoliations.

I submit as Document Number RF-134 information given by the representative of the Netherlands Government concerning transport and communication. This is a summary of it:

(a) Railways—of 890 locomotives, 490 were requisitioned; of 30,000 freight cars, 28,950 were requisitioned; of 1,750 passenger cars, 1,446 were requisitioned; of 300 electric trains, 215 were requisitioned; of 37 Diesel-engine trains, 36 were requisitioned. In general, the little material left by the Germans was badly damaged either by wear and tear, by military operations, or by sabotage. In addition to rolling stock, the Germans sent to the Reich considerable quantities of rails, signals, cranes, turntables, repair cars, *et cetera.*

(b) Tramways—the equipment was removed from The Hague and Rotterdam to German cities. Thus, for example, some 50 tramcars with motors and 42 trailers were sent to Bremen and Hamburg. A considerable amount of rails, cables, and other accessories were removed and transported to Germany. The motor buses of the tramway companies were likewise taken by the occupying power.

(c) The Germans seized the greater part of the motorcars, motorcycles, and about 1 million bicycles. They left the population only those machines which would not run.

(d) Navigation—the Germans seized a considerable number of barges and river boats, as well as a considerable part of the merchant fleet, totalling about 1.5 million tons.

(e) Postal equipment—the Germans seized a large quantity of telephone and telegraph apparatus, cables, and other accessories, which has not yet been computed; 600,000 radio sets were confiscated.

I now come to Chapter 49, miscellaneous spoliation.

Forced labor demanded by the occupier.

From information given by the Netherlands Government, which I submit as Document Number RF-135, a great number of Dutch workers were obliged to work either in Holland or in Germany. About 550,000 were deported to the Reich, which represents a considerable number of hours of work lost to the national production of the Netherlands.

Plunder of the royal palaces.

The furniture, private archives, stable equipment and carriages, and wine cellars of the royal house were plundered by the Germans. In particular, the Palace of Noordeinde was completely looted of its contents, including furniture, linen, silverware, paintings, tapestries, art objects, and household utensils. A certain number of similar objects were removed from the Palace of Het Loo and were to be used in a convalescent home for German generals.

The archives of the royal family likewise were stolen. This is shown by a report given by the representative of the Netherlands Government, which I submit as Document Number RF-136.

Pillage of the city of Arnhem.

Besides numerous cases of individual looting, which are not dealt with in this present statement, there was a systematically organized pillage of entire cities. In this manner the town of Arnhem was despoiled in October and November 1944. The Germans brought in miners from Essen who, under military orders, proceeded in specialized gangs to dismantle all the removable furniture and send it and objects of all kinds to Germany. This is shown in the testimony given by the representative of the Netherlands Government, which I submit as Document Number RF-137.

The consequences of economic plundering in the Netherlands are considerable. We shall just mention that the enormous decrease of the national capital will result in production being below the needs of the country for many years yet to come. But the gravest consequence is that affecting the public health, which is irreparable.

The excessive rationing, over many years, of food, clothing, and fuel, ordered by the occupiers to increase the amount of spoliation, has brought about an enfeeblement of the population. The average calory consumption by the inhabitant, which varied between 2,800 and 3,000, dropped in large proportions to about 1,800 calories, finally to fall even to 400 calories in April 1945.

Starting from the summer of 1944, the food situation became more and more serious. The Reich Commissioner, Seyss-Inquart, forbade the transport of food stuffs between the western and northern zones of the country. This measure, which was not justified by any military operations, seems only to have been dictated by hatred for the population, only to persecute and intimidate them, to weaken and terrorize them.

Not until about December 1944 was this inhuman measure lifted; but it was too late. Famine had already become general. The death rate in the cities of Amsterdam, Rotterdam, The Hague, Leyden, Delft and Gouda increased considerably, rising from 198 to 260 percent. Diseases which had almost been eliminated from these regions reappeared. Such a situation will have irreparable consequences for the future of the population. These facts are given in two reports which I submit as Documents Numbers RF-139 and 140.

By ordering such severe rationing measures in order to get for themselves products which were indispensable to the existence of the Netherlands, which is contrary to all principles of international law, I may say that the German leaders committed one of their gravest crimes.

My statements concerning Holland are concluded. My colleague, M. Delpech, will now state the case for Belgium.

M. HENRY DELPECH (Assistant Prosecutor for the French Republic): Mr. President, Gentlemen, I have the honor of presenting to the Tribunal a statement on the economic plundering of Belgium.

As early as 1940 the National Socialist leaders intended to invade Belgium, Holland, and northern France. They knew that they should find there raw materials, equipment, and the factories which would enable them to increase their war potential.

As soon as Belgium had been occupied, the German military administration did its best to reap the maximum benefit. To this end the German leaders took a series of measures to block all existing resources and to seize all means of payment. Important supplies built up during the years 1936 to 1938 were the object of enormous requisitions. The machines and equipment of numerous enterprises were dismantled and sent to Germany, bringing about the closing down of numerous factories and in many sectors an enforced consolidation.

Given the highly industrial character of this country, the occupying authorities imposed, under threats of various kinds, a very heavy tribute upon Belgian industries. Nor was agriculture spared.

The third part of the French economic exposé deals with a study of all these measures. This will be the subject of four chapters.

Chapter 1 deals with the German seizure of the means of payment. The second chapter will be devoted to clandestine purchases and an account of the black market. Chapter 3 will deal with purchases of apparent regularity while the fourth chapter will concern impressment.

In a fifth chapter the acquisition of Belgian investments in foreign concerns will be presented to the Tribunal, before concluding and emphasizing the effect of the German intrusion on the public health. Finally, a few remarks will be presented concerning the conduct of the Germans after they had annexed the Grand Duchy of Luxembourg.

Chapter 1, German seizure of means of payment.

To enslave the country from an economic point of view, the most simple procedure was to secure the possession of the greater part of the means of payment and to make impossible the export of currency and valuables of all kinds.

There is an ordinance of 17 June 1940 which forbids the export of currency and valuables of all kinds. This ordinance was published in the *Verordnungsblatt* for Belgium, Northern France, and Luxembourg and will hereafter be called by its usual abbreviated form VOBEL. This ordinance was published in VOBEL, Number 3, and

was submitted under Document Number RF-99. In the VOBEL of the same day appeared a notice dated 9 May 1940, which regulated the issuing of Reichskreditkasse notes to provide the occupation troops with legal tender. By this means the Germans made possible the buying, without supplying any equivalent, all they desired in a country abounding with products of all kinds, without the inhabitants being able to protect their possessions against the invader.

The occupier used, in addition, three other methods for securing the greater part of the means of payment. These three methods were: The creation of an issuing bank, the imposition of war tribute under the pretext of maintaining occupation troops, and the working of a system of clearing to their profit alone. These measures will be fully dealt with in three sections which now follow.

Establishment of an issuing bank.

As soon as they arrived in Belgium the Germans established an office for supervising banks, which was entrusted at the same time with the control of the National Bank of Belgium. This was ordered on 14 June 1940—VOBEL, Number 2, which is submitted as Document Number RF-141.

At this time the directorate of the National Bank of Belgium was outside the occupied territories; but the amount of notes on hand would have been insufficient to insure normal circulation, as a great number of Belgians had fled before the invasion, taking with them a large quantity of paper money. These are, at least, the reasons which the Germans put forward for establishing an issuing bank by the ordinance of 27 June 1940, published in VOBEL, Numbers 4 and 5, which I submit as Document Number RF-142.

By virtue of this last ordinance, 27 June 1940, the new issuing bank with a capital of 150 million Belgian francs, 20 percent of which had been issued in coin, received the monopoly for issuing paper money in Belgian francs. As a matter of fact, the National Bank of Belgium no longer had the right to issue money. The cover of the issuing bank was not represented by a gold balance but: 1) by credits from discount operations and loans granted in conformity with Article 8 of the new statutes; 2) monies owed to the National Bank of Belgium, as well as coin which was in circulation for the account of the public treasury; 3) finally, the third means of cover—foreign currency and francs, particularly German money, including Reichskreditkasse notes as well as assets at the Reichsbank, at the Office of Compensation for the Reich, and the Reichskreditkasse.

The German Commissioner who had been appointed by a decree of 26 June 1940 became the controller of the issuing bank—decree

of 26 June 1940, published in VOBEL, Number 3, Page 88, and submitted as Document Number RF-143.

After the return to Belgium of the directors of the National Bank, on 10 July 1940, an agreement between this bank and the new issuing bank was effected by the nomination of the head of the new issuing bank to the position of director of the National Bank of Belgium.

The issuing bank proceeded to put out a large amount of notes, so much so that on 8 May 1940 the currency in circulation amounted to 29,800 million Belgian francs. On 29 December 1943 it amounted to 83,200 million Belgian francs, and on 31 August 1944 it was 100,200 million Belgian francs, that is to say, an increase of 236 percent.

The issuing bank functioned; but not without certain difficulties, either with the military command, its own staff, or with the National Bank of Belgium. Actually, besides its function of issuing, the new bank had as a principal function operations relating to postal orders and to currency, as well as operations with German authorities, notably as concerned the occupation indemnity and, above all, clearing.

The National Bank of Belgium lost its right to issue paper money but resumed its traditional operations for private as well as state accounts, particularly transactions on the open market.

These data, Gentlemen, are corroborated by the final report of the German military administration in Belgium, ninth part, dealing with currency and finance. This final report of the German military administration in Belgium was discovered by the United States Army, and it is a document to which we shall refer many times. It is Document Number ECH-5 and is submitted to the Tribunal as Exhibit Number RF-144.

The ninth part, which is of interest here, was written by three chiefs of the administration section of Brussels: Wetter, Hofrichter, and Jost.

In spite of the establishment of the issuing bank, Reichskreditkasse notes were valid in Belgium until August 1942; but it was the National Bank of Belgium that was obliged to absorb these notes in September 1944, and on account of this, Belgian economy suffered a loss of 3,567 million Belgian francs. This number is given by Wetter in the foregoing report, Page 112, the excerpt of the report being submitted as Document Number RF-145.

Moreover, from information given by the Belgian Government, the issuing bank had in hand at the moment of liberation of the territory a sum totalling 644 million in Reichskreditkasse notes; and further, it had assets in a transfer account of 12 million Reichsmark on the books of the Reichskreditkasse, that is to say, a total loss

of 656 million Belgian francs—the figure given in a report of the Belgian Government, which is submitted as Document Number RF-146.

Occupation costs.

Let us now take the occupation costs. Article 49 of the Hague Convention stipulates that if the occupier makes a levy in money, it will be only for the needs of the army of occupation or for the administration of the territory. The occupier can, therefore, impose a tax for the maintenance of his army; but this must not exceed the effective force strictly necessary. On the other hand, the words "needs of the army of occupation" do not mean the expenses of armament and equipment but solely the costs of billeting, food, and normal pay, which excludes, in all cases, luxury expenses.

Moreover, Article 52 authorizes the occupying authority to exact, for the use of its army, requisitions in kind and in service on the express condition that they shall be proportionate to the resources of the country and that they should not involve the population with the obligation to take part in military operations against their own country. The same Article 52 stipulates, moreover, that levies in kind will be, as far as possible, paid in cash.

Consequently the Germans exacted a monthly indemnity of 1,000 million up to August 1941. On that date the indemnity was increased to 1,500 million per month. By the end of August 1944, the payments under that designation totaled 67,000 million Belgian francs. This number cannot be contested by the Defense, since in the report quoted, Pages 103 and following, the said Wetter wrote in June 1944 that the total sum of Belgian francs paid for the army of occupation was 64,181 million—the passage in the report is submitted as Document Number RF-147.

But this sum of 64,000 million was completely disproportionate to the needs of the occupying army. This is shown in the report of Wetter, in a passage which is submitted as Exhibit Number RF-148. On Page 245 of this report it is said that on 17 January 1941 the general who was Commander-in-Chief in Belgium had asked the High Command of the Army if the indemnity covered only the expenses of occupation. This point of view was not accepted by the commanding general, who, by order of 29 October 1941, specified that the indemnity of occupation was to be used not only for the needs of the occupying army but also for those of the operating armies. Moreover, on Page 11 of the original German text of the same report it is written—and I shall read to the Tribunal an excerpt which will be found in the document book under Document Number RF-149, the second paragraph:

"As the increase in the expenses of the Wehrmacht made it clear that it would be impossible to manage with this amount,

the military administration demanded that the calculation of the occupation costs should be straightened out by deducting all expenses foreign to the occupation proper. This concerned especially the larger purchases of all kinds which the military services made in Belgium, such as horses, motor vehicles, equipment, all of which was designated for other territories and was written off as occupation costs.

"By a decision of the Delegate for the Four Year Plan, dated 11 June 1941, the financing of other than true occupation costs was to be met by clearing. To comply with this decree, beginning in July 1941, the administration of the military commander ordered a monthly report to be rendered of all expenses other than those required for the occupation but which so far had been paid under the account of occupation costs, in order to have these expenses refunded through clearing. Thanks to this, large sums could be recovered and put into the account of occupation costs."

Before concluding the examination of this point concerning war tribute, that tribute called occupation costs, it is necessary to point out that the Germans had already demanded, by the decree of 17 December 1940, submitted as Document Number RF-150, that the costs of billeting their troops should be charged to Belgium. Owing to this, the country had to meet expenses totalling 5,900 million francs, which went for billeting German troops, costs of installation, supplies, and furniture.

In his report Wetter writes on Page 104—the excerpt submitted as Document Number RF-147—that at the end of June 1944 the Belgian payments for billeting troops totalled 5,423 million francs.

Clearing.

We now come to the third part of German plundering—clearing. The issuing of Reichskreditkasse notes and the war tribute, called "occupation costs," were not sufficient for Germany. Her leaders created a system of clearing which enabled them to procure, unduly, means of payment totalling 62,200 million Belgian francs.

As soon as they arrived in Belgium, by the decrees of 10 July, 2 August, and 5 December, 1940—which appear in the document book under the Numbers RF-151, RF-152, and RF-153—the Germans specified:

1) That all payments on debts of people resident in Belgium to their creditors in Germany had to be paid into an account called the "Deutsche Verrechnungskasse, Berlin." This was an open account on the books of the National Bank of Belgium in Brussels, an account kept in belgas in spite of the prohibition on currency of 17 June 1940, the prohibition to which I have already referred concerning the blocking of means of payment in the country.

By the decision of 4 August 1940, it was moreover prescribed that the carrying out of clearing would henceforth no longer be entrusted to the National Bank of Belgium but to the issuing bank in Brussels, which, as I have already had the honor of pointing out, had been established by the occupying power and was under their absolute control.

2) The Germans laid down a second measure whereby all debtors resident in the Reich should pay their Belgian creditors by way of the open account at the issuing bank in Brussels, at the following rate of exchange; 100 belgas to 40 marks, that is to say, 1 mark for 12.50 Belgian francs.

These arrangements, moreover, were extended to the countries occupied by Germany with a view to facilitating their operations in those countries; they were even extended to certain neutral countries by various similar decrees appearing in the ordinance book.

The mission of the issuing bank in Brussels consisted, therefore, on the one hand, of receiving payments from all persons or agencies established in Belgium which had foreign engagements and, on the other hand, to pay those persons or agencies established in Belgium which had foreign credit.

In other words, every time an exporter delivered goods to an importer of another country which belonged to the clearing system, it was the issuing bank which settled the invoice and which entered as equivalent, in the ledgers, a corresponding credit at the Deutsche Verrechnungskasse in Berlin—the German Clearing Institute in Berlin. In the case of imports, the inverse procedure was followed.

In fact, under the German direction, this system functioned to the detriment of the Belgian community which, at the moment of the liberation, was creditor in clearing to the extent of 62,665 million Belgian francs. It was the National Bank of Belgium which had been forced to make advances to the issuing bank to balance the account of the German Clearing Institute.

A large number of operations made through clearing had no commercial character whatever but were purely and simply military and political expenses.

From information given by the Belgian Government, the clearing operations could be summarized in the following manner —and I take the figures from a report of the Belgian Government previously cited, which has been presented as Document Number RF-146: Of the total transactions, 93 percent were Belgium-German clearing operations; merchandise amounted to 93 percent, and services 91 percent.

If one considers the part taken respectively by merchandise, services, or capital, one obtains a very significant picture. The

entire clearing transactions of Belgium with foreign countries totalled, on 2 September 1944, the sum of 61,636 million Belgian francs, of which 57,298 million were for Belgium-German operations, 4,000 million only with France, 1,000 million with the Netherlands, and 929 million with other countries.

It is only in the sector of goods and services that the want of equilibrium is apparent due in large measure to requisitions of property and services made by Germany for her own account. It is known that the so-called exports affected especially metals and metal products, machines, and textile products, nine-tenths of which were seized by the Reich, which made itself thereby guilty of real spoliation.

As to the transfer of capital, during the first period of the occupation it was particularly intense. It concerned the forced realization of Belgian capital in foreign countries, as well as the forced cession to German groups of Belgian assets blocked in Germany. No effective compensation was given in exchange. The transfers made for services were principally for payments for Belgian labor in foreign countries.

The credit balance of these services on 2 September 1944 is as follows, in Belgian francs: Total clearing operations dealing with services, 20,016 million—that is to say, for payment of labor 73 percent of the total. For Germany alone, 18,227 million—that is, 72 percent of the total amount. For France only 1,621 million Belgian francs—that is to say, a very small part.

Not content with requisitioning workers for forced labor in Germany or in the occupied territories, the Germans compelled Belgium to bear the financial burden and imposed it either through the liquidation of the transferred savings in clearing or by the remittance of Belgian notes to the Directorate of the Reich Bank in Berlin for payment of workers in national currency.

THE PRESIDENT: Do you think it is necessary to go into these clearing operations again? In each case of the various countries which have been dealt with, the same clearing operations have taken place, have they not? Then perhaps it is really unnecessary to do it over again for Belgium.

M. DELPECH: Very well, Your Honor. At all events, the Germans recognized the fact, and the figures taken from the report previously cited support the conclusions of our statement.

Before ending this chapter concerning German seizure of the means of payment, it is fitting that the attention of the Tribunal be brought to the order of 22 July 1940, by which the Germans fixed the rate of the Belgian franc at 8 Reichspfennig, that is to say 12.50 francs per mark; and in the forementioned report Wetter

writes concerning this matter, on Pages 37 and 38, a passage which I ask the Tribunal's permission to read and which is in the document book as Document Number RF-158.

> "The *de facto* maintenance of the pre-war parity was moreover of considerable political importance because a large group of the population would have considered a sharp devaluation or a repeated change of parity as a maneuver of exploitation."

The following observation in connection with this conception must be made: The occupiers had no need in Belgium to decree, with the view of promoting their economic exploitation, that the Belgian franc should have a lesser value when, as a matter of fact —contrary to what occurred in France—they had, at the moment they entered Belgium, instituted new currency over which they had the control.

Lastly, let us mention that Germany obliged the Vichy Government to deliver 221,730 kilos of gold amounting, at the 1939 value, to 9,500 million francs; but as France had returned this gold to the Bank of Belgium, this question will be treated under the economic exploitation of France.

Recapitulation.

To sum up, the means of payment seized by the army of occupation may be seen from the following figures:

Reichskreditkasse notes, 3,567 million; various bills and accounts on the books of the Reichskreditkasse, 656 million; war tribute under the pretext of occupation costs, 67,000 million; to which may be added the credit balance of clearing 62,665 million; total (in Belgian francs), 133,888 million.

The Germans thus seized no less than 130,000 million Belgian francs, which they used for outwardly regular purchases, for payment of their requisitions, and to make clandestine purchases on the black market. These so-called purchases and requisitions will be treated in the following chapters.

Chapter 2, clandestine purchases, black market.

As in all the other occupied territories, the Germans organized a black market in Belgium as early as October 1941.

According to a secret report on the black market, called "Final Report of the Control Office of the Military Commander in Belgium and in the North of France, Concerning the Legalized Emptying of the Black Market in Belgium and in the North of France," a report covering the period from 13 March 1942 to 31 May 1943—Exhibit Number RF-159 (Document Number ECH-7) in the document book—the reasons given by the Germans for this organization of the black market are three in number:

1) To check competition on the black market between various German buyers; 2) to make the best use of the Belgian resources for the purposes of German war economy; 3) to do away with the pressure exercised on the general standard of prices and by this to avoid all danger of inflation which would result in endangering German currency itself.

This same report tells us, Pages 3 and following, that an actual administrative organization was set up by the Germans for carrying out this policy. The bookkeeping was done by the Clearing Institute of the Wehrmacht, which combined all the operations in its books. The direction of purchases was regulated by a central organization, the name of which changed as the years went by and which had a certain number of organizations subordinate to it, particularly a whole series of purchasing offices.

The central organization was set up in accordance with the decree of the military commander in Belgium, dated 20 February 1942. It was formed on the 13th of the following March; and as soon as it was created it received special directives from the delegate of the Reich Marshal, Defendant Göring. This delegate was Lieutenant Colonel Veltjens, of whom we spoke this morning.

This organization was only established to co-ordinate the legalization and direction of the black market, as had been determined upon, and planned following conferences between the Commissioner General and the Military Commander of Belgium with the Chief of the Armament Inspection. According to the terms of that agreement, which reinforced a declaration of 16 February 1942 emanating from the Reich Minister for Economics, the aim was to drain the black market and in accordance with directives, in a legal form, with the main idea of safeguarding the supply requirements of the German Reich.

This organization had its offices in Brussels. The purchases themselves were regulated by a certain number of specialized offices, the list of which is given on Page 5 of the forementioned report. These organisms received their orders from the Rohstoffhandelsgesellschaft, which has already been mentioned at the beginning of the statement on the economic exploitation of Western Europe.

The role of Roges was very important in the organization of the black market. In effect it was four-fold:

1) The purchasing directives, once the authorization had been given by the central office in Brussels, were transmitted by Roges to the proper purchasing office.

2) The delivery of goods bought and marked for the Reich were made through Roges which took charge of their distribution in Germany.

3) Roges financed the operations.

4) It was Roges which was entrusted with paying the difference between the rate of purchase—generally very high because of the black market rate—and the fixed official rate of sale on the German domestic market. The difference was covered by an equalizing fund, supplied from the occupation costs account, to which the Reich Minister of Finance put sums at the disposal of Roges through the channel of the Ministry of Armament.

The forementioned report furnishes a complete series of interesting particulars on the functioning of the central organization itself. It is interesting to note that the central office in Brussels was instructed by order of the Military Commander in Belgium, dated 3 November 1942, to have a branch at Lille set up for the north of France. At the same time, the Brussels office was authorized to instruct its branch office at Lille. In the document book, under Document Number RF-160, a final report of the Lille office is mentioned. This report, drawn up on 20 May 1943, gives a whole series of interesting particulars on the functioning of this organization.

THE PRESIDENT: It is 5 o'clock now. M. Delpech, I think it would be the wish of the Tribunal, if it were possible, for you to omit any parts of this document which are on precisely the same principles with those which have already been submitted to us in connection with the other countries. If you could, I think that would be convenient for the Tribunal. Of course, if there are any essential differences in the treatment of Belgium then, no doubt, you would draw our attention to them.

M. DELPECH: Certainly, Your Honor.

[The Tribunal adjourned until 22 January 1946 at 1000 hours.]